



Order under Sections 30 & 57 Residential Tenancies Act, 2006

Citation: Paulauskas v Yuan, 2026 ONLTB 26461

Date: 2026-03-31

File Number: LTB-T-008283-23

LTB-T-022082-23

In the matter of: 165 CRANBROOK ST
KITCHENER ON N2P2X4

Between: Amber Paulauskas Tenant

And

Qiang Yuan Landlords
Liwei Li

And

Rupinder Yogi Purchaser

Amber Paulauskas (the 'Tenant') applied for an order determining that Qiang Yuan and Liwei Li (the 'Landlords'):

- failed to meet the Landlords' maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards (T6 application); and
- gave a notice of termination in bad faith (T5 application)

These applications were first before the Board on December 14, 2023 (adjourned on consent) and again on February 26, 2025 (adjourned due to insufficient time in the hearing block). They were heard together by videoconference on January 27, 2026.

The Landlord Qiang Yuan and the Tenant attended the hearing. The Tenant declined to speak with Tenant Duty Counsel prior to the hearing.

Determinations:

T6 application:

1. As explained below, the Tenant did not prove on a balance of probabilities the allegations contained in the application. Therefore, the application is dismissed.

2. The Tenant resided in the rental unit from November 15, 2016 until January 31, 2022.
3. The Tenant filed the T6 application on January 30, 2023.
4. At the hearing on February 26, 2025, the Member advised the Tenant of the one-year time limitation imposed by section 29(2) of the *Residential Tenancies Act, 2006* (the "Act"):

No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred.

5. The Tenant's application includes claims from 2019 that are statute-barred and cannot be considered for that reason. The application also claims that the refrigerator/freezer malfunctioned from July 17, 2021 until the Tenant vacated the rental unit.
6. Because the Tenant filed her application one year less one day after vacating the rental unit, I am only able to base any remedy on the impact of any breach of the Act on the one day which falls within the limitation period.
7. The Tenant's evidence was that the refrigerator was not consistently working, then the freezer was unusable. She used the neighbour's freezer to store food but was still able to use the refrigerator. She testified that the Landlord did not address the concern or repair or replace the refrigerator and she did not follow up because she stated that her priority was finding new accommodation after receiving the N12 Notice to vacate.
8. The Landlord's evidence was that on July 22, 2021, the Tenant sent a message that the refrigerator was noisy. The Landlord sent a link to a fridge that he would consider purchasing, but the Tenant did not like it and thought it was too small. They agreed to keep the existing fridge, and if the Tenant purchased the property, which they had discussed, the Landlord would discount the purchase price for chattels. He testified that the Tenant did not make any further requests for repair.
9. I am not satisfied that the Landlord failed to meet their obligations under subsection 20(1) of the Act to repair or maintain the rental unit and did not fail to comply with maintenance standards.
10. In *Onyskiw v. CJM Property Management Ltd.*, [2016 ONCA 477](#), the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.
11. In this case, the Tenant did not challenge the Landlord's testimony that he had offered to purchase a new refrigerator, but she did not agree with his choice. The Tenant was able to use the refrigerator, even if it may have been in poor repair. She stated that the freezer did not work and so she used the neighbour's freezer, but also that she did not follow up with the Landlord about repairing or replacing the freezer.
12. Even if I were to find that the Landlord were in breach of his maintenance obligations (which I do not), I would only be able to award the Tenant a remedy for one day. Any

award for one day without use of the freezer would be minimal. While I could order that the Landlord repair or replace the freezer, the tenancy has terminated, and this remedy would be moot.

13. The application is dismissed.

T5 application - Landlord gave N12 for purchaser's use in bad faith

14. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.

15. Subsection 57(1)(b) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following on a balance of probabilities:

- The Landlord gave the Tenant an N12 notice of termination under section 49 of the Act;
- The Tenant vacated the rental unit as a result of the N12 notice of termination;
- No person referred to in subsection 49(1) or 49(2) of the Act occupied the rental unit within a reasonable time after the Tenant vacated; and
- The Landlord served the N12 notice of termination in bad faith.

16. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Court of Appeal for Ontario held that when deciding a T5 application relating to an N12 served for purchaser's own use under section 49 of the Act, the LTB must consider both the landlord's and the purchaser's good faith. After making both those determinations, the LTB must then consider what orders to make in respect of the landlord and the purchaser.

17. There was no dispute that the Landlord gave the Tenant an N12 notice of termination under section 49 of the Act or that the Tenant vacated the rental unit as a result of the N12 notice.

18. The Tenant did not prove the following requirement in subsection 57(1)(b):

- No person referred to in subsection 49(1) or 49(2) of the Act occupied the rental unit within a reasonable time after the Tenant vacated; and
- The Landlord served the N12 notice of termination in bad faith.

19. The Tenant testified that after she vacated the rental unit January 30, 2022, she went by the rental unit regularly and no lights were on and there was a lockbox on the door on May 26, 2022. She testified that former neighbours informed her that someone had a barbeque in the backyard in July 2022 but no one moved in. December 1, 2022 there was a lockbox on the door and there were flyers that had not been picked up. In December 2022 there was a moving truck at the house. The Tenant submitted emails into evidence from Leslie Condie, the former neighbour.

20. It was the Tenant's belief that no one moved into the unit until December 2022 and then the rental unit was listed for rent in November 2023.

21. The Landlord submitted the Agreement of Purchase and Sale dated November 23, 2021 into evidence which shows a closing date of March 29, 2022. He also submitted a sworn

affidavit from the purchaser into evidence, dated November 30, 2021, which states that the purchaser and his family intended to reside at the property.

22. In cross-examination, the Landlord stated that he did not go back to the property to check that the purchaser moved in, as it was not his responsibility to do so.

23. Although the purchaser did not attend the hearing, there is a sworn affidavit from the purchaser in evidence which states that he intended to reside in the rental unit with his family.

24. Section 49(1) of the Act states that the Landlord can give the N12 Notice “if the purchaser in good faith requires possession of the unit for the purpose of residential occupation....” Unlike an N12 Notice served for Landlord’s own use, there is no requirement that the purchaser reside in the unit for a minimum of one year.

25. I find that the Tenant has not proven that the Landlord served the N12 Notice in bad faith. I have no reason to doubt the Landlord’s testimony that he believed that the purchaser intended to reside in the unit.

26. The sale closed at the end of March 2022. While the Tenant is suspicious that the purchaser did not move into the rental unit, there is evidence that someone was having a barbeque in the back yard in July 2022. The Tenant’s evidence relied heavily on the hearsay statements of the neighbour. Ms. Condie was not called as a witness to testify. While I can accept hearsay evidence such as this, I give it little weight as Ms. Condie was not available for cross-examination on her statements.

27. I find that, on a balance of probabilities, the Tenant has not proven that the purchaser did not move into the rental unit.

It is ordered that:

T6 application

1. The Tenant’s application is dismissed.

T5 application

1. The Tenant’s application is dismissed.

March 31, 2026
Date Issued

Margo den Haan
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.