



Order under Section 57 Residential Tenancies Act, 2006

Citation: Penzi v Spivak, 2026 ONLTB 26794

Date: 2026-04-08

File Number: LTB-T-039102-25

In the matter of: 1707, 88 BLUE JAYS WAY
TORONTO ON M5V0L7

Between: Peace Penzi Tenant

And

Tamila Spivak Landlord

Peace Penzi (the 'Tenant') applied for an order determining that Tamila Spivak (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on March 3, 2026.

The Landlord, the Landlord's representative, Elina Vasileva, and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$5,560.50.

The Law

2. Subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenants to prove each of the following on a balance of probabilities:
 - The Landlord gave the Tenants an N12 notice of termination under section 48 of the Act;
 - The Tenants vacated the rental unit as a result of the N12 notice of termination;
 - No person referred to in subsection 48(1) of the Act occupied the rental unit within a reasonable time after the Tenants vacated; and
 - The Landlord served the N12 notice of termination in bad faith.
3. It is undisputed that the Landlord gave the Tenant an N12 notice of termination on January 13, 2025 stating that the Landlord required the rental unit for her son's residential occupation. The termination date in the notice was March 31, 2025.

4. It is also undisputed that the Tenant moved out of the unit on March 31, 2025 as a result of the N12 notice.
5. It is also undisputed that the Landlord's son moved into the unit after the Tenant vacated but vacated five weeks later on May 8, 2025. The unit was leased to a new tenant on May 15, 2025.
6. The remaining issue I must decide is whether the Landlord gave the N12 notice in bad faith.

Rebuttable Presumption of Bad Faith

7. The parties do not dispute that the rental unit was listed for rent within one year after the Tenant vacated the unit. This triggers a presumption that the N12 Notice was given in bad faith. However, the presumption is rebuttable and the burden of proof shifts to the Landlord to prove, on a balance of probabilities, that they gave the N12 Notice in good faith.
8. Subsections 57(5) and 57(6) state:

57(5) For the purposes of an application under clause (1)(a), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in subsection (6) the landlord,

...

(b) advertises the rental unit...for sale

...

57(6) The period referred to in subsection (5) is the period that,

(a) begins on the day the landlord gives the notice of termination under section 48; and

(b) ends one year after the former tenant vacates the rental unit.

9. The Landlord's position was that the N12 Notice was given to the Tenants in good faith, that the Landlord's son moved into the unit after the Tenant vacated, but that there was a change of circumstances (i.e. his expected job with Air Canada appeared to fall through) causing him to move back to Montreal to be with his partner and seek alternate employment.

Landlord's evidence

10. The Landlord testified that in January 2025, her son was hired by Air Canada and planned to move from Montreal to Toronto for training. Given that he did not want to live with his parents, it was agreed that he would move into the rental unit. After the Tenant vacated, the Landlord's son moved into the unit.

11. The Landlord stated that after the start date for her son's training was postponed and he could not obtain confirmation as to whether or not he still had a job offer, he moved back to Montreal on May 8, 2025 to live with his partner and start looking for alternate employment. As such, the Landlord listed the unit for rent on May 11, 2025 and entered into a lease with a new tenant on May 15, 2025.
12. At the end of June 2025, her son received confirmation from Air Canada that his training was starting and he returned to Toronto. Since the unit had been re-leased to a new Tenant, he stayed one week with the Landlord, after which he secured a room near the airport for the duration of his training. He currently resides with his parents.
13. On cross-examination, the Landlord confirmed that despite her son's enquiries to Air Canada about whether he had moved on to the next step of the recruitment process [Doc 7438028, page 15], her understanding was that he had already been hired. It was only after her son moved back to Montreal on May 8, 2025 and started looking for another job that she decided to re-rent the unit.

Landlord's son's evidence

14. The Landlord's son testified that after he was hired by Air Canada, he had to relocate to Toronto for training. He had understood his training would start on March 26, 2025 and had to be ready to go on a moment's notice. Since he and his father do not get along, the N12 notice was given to the Tenant so that he could live in the unit. Although he moved into the unit on April 4, 2025, he move out about four weeks later after his training was delayed. He became frustrated sitting around doing nothing, waiting for Air Canada to respond to his emails about when his training would start or whether, in fact, he was still hired. He missed his partner and needed to generate income. Thus, he returned to Montreal and started looking for employment.
15. It was only after Air Canada emailed him on May 20, 2025, to advise that his training would start on June 25, 2025 [Doc 7438028, page 23] that he found out that the Landlord had re-rented the unit despite telling the Landlord that he might return if he heard back from Air Canada. He admitted he may have signed a document because he is on title for the unit but denies that he was aware of what he was signing. When he returned to Toronto, he stayed with his parents for a couple of days before securing a room closer to the airport for training. While he is currently living with his parents because of work, he does not intend to move into the unit because his partner is planning to sell their home in Montreal, after which they will purchase a condominium unit in or around Toronto.
16. Based on the evidence before me, I am not satisfied that the landlord's son intended to live in the unit for at least one year. I say this because I do not find it credible that despite engaging in a hiring process for over five months, the Landlord's son opted to vacate the rental unit because Air Canada did not respond within the four-week period they said they would. While the Landlord's son said he was fed up sitting around, there was no evidence before me as to why the Landlord's son could not have searched for temporary employment in or around Toronto rather than Montreal while he waited for a response from Air Canada. There was no documentary evidence, such as job applications, to support the Landlord's son's testimony that he did, in fact, start searching for work in Montreal. In fact, the Landlord's evidence

confirms that just days before he vacated the unit, he was still following up with Air Canada as to the job position.

17. I also do not find it credible that the Landlord would rent the unit to a new tenant on May 15, 2025 if her son told her he would return if he heard from Air Canada. At the very least, I would have expected the Landlord to delay any attempts to sell or rent the unit if her son's intention to return to the unit was genuine. Furthermore, although the Landlord's son testified that he had to move into the unit because he did not get on with his father, he admitted that after his training was completed, he moved in with his parents and continues to live there to date. He confirmed that rather than move into the unit, he and his partner intend to purchase a different condominium unit.
18. In all of the circumstances, and in light of the reverse onus that applies, I find that the Landlord served the notice of termination in bad faith. Therefore, the Tenant's application must be granted.

Remedies

19. The next issue before me is the quantum of remedies to award the Tenant. The Remedies the Tenant is requesting are:
 - a rent abatement
 - compensation for the difference in rent between the rental unit and her new unit;
 - general compensation

Rent abatement

20. The Tenant requested a rent abatement of \$7,200, representing 100% of the lawful monthly rent paid for four months. The Tenant stated that the Landlord forced her to leave a home that she loved and had lived in four years. She had intended to stay in the unit for at least one or two more years. When she received the N12 notice, she was preparing for her first trial. Having to look for a new place to live and move after receiving the N12 notices was extremely stressful and significantly interfered with her use and enjoyment of the home.
21. The Tenant was served with the N12 notice on January 13, 2025 and moved out of the unit on March 31, 2025. This represents two and a half months. I accept that having to search for a new place to live while the Tenant was preparing for her first trial would have been stressful. The unit was furnished which, in my view, means that the Tenant would have had less items to pack and move. I find a rent abatement of \$2,312.50 reasonable in the circumstances. This represents 50% of the lawful monthly rent paid over two and a half months.

Rent differential

22. The Tenant testified that after she received the N12 notice, she leased a townhouse for \$3,300.00 a month [Doc 7468597, page 30]. While this was considerably more than the \$1,850.00 she had been paying for the rental unit, the intention was that her partner would move into the townhouse when his lease was up at the end of August 2025. Unfortunately,

she and her partner separated, after which she left her employment at the end of May 2025. Her new landlord allowed her to terminate her lease early whereupon they signed an N11 agreement on April 26, 2024, agreeing to terminate the tenancy on May 31, 2025 [Doc 7468597, page 39]. Thereafter, she moved in with her parents in Scarborough on June 1, 2025.

23. In August 2025, the Tenant signed a lease and moved into her new apartment, located in the same building as the unit, on October 1, 2025. While the unit is comparable to the rental unit in size (her new unit is approximately 30 square feet bigger), the rental unit had been furnished, was \$1,850.00 per month and included utilities. Her new unit is not furnished, is \$2,700.00 per month and does not include hydro [Doc 7468597, page 48].
24. Pursuant to section 31(2) of the Act, rent differential is available for up to a year where the conduct of the landlord induced the tenant to move out of the rental unit. While I am satisfied that the Tenant's first move to the townhouse can be attributed to the Landlord's conduct (i.e. service of the N12 notice), the second move out of the townhouse to her parents' home and third move from her parents' home to her current unit is not something the Landlord can be held responsible for. Here, the Landlord's conduct certainly caused the Tenant to move out initially, but it had nothing to do with her decision to move again on May 31, 2025 or October 1, 2025.
25. While I find that the Tenant is entitled to a rent differential for the first move, the Tenant admitted that her new accommodation was significantly larger and not comparable to the rental unit. As such, it would be unfair to the Landlord to award a rent differential based on that rent amount of \$3,300.00. I find it reasonable, however, to base a rent differential on the Tenant's current unit which is essentially the same as the rental unit and in the same building. Given that she her increased rent is \$2,700.00, I find the Landlord will be required to pay a rent differential of \$1,700.00, representing two months of increased rent for the period April 1, 2025 to May 31, 2025.
26. Although the Tenant also requested reimbursement of the cost of furniture she had to purchase, in addition to the increased rent, because the new unit was unfurnished, I do not find that purchasing furniture constitutes rent differential.

General Compensation

27. The Tenant requested general compensation in the amount of \$22,200.00, representing twelve months of her previous rent.
28. Section 57(3)(1.1) of the Act authorizes the Board to pay general compensation in the amount of up to twelve months rent the Tenant last paid should it be determined the Landlord gave an N12 notice in bad faith.
29. The Tenant stated that although she and her partner had discussed living together, that process was rushed after she was served the N12 notice. It is her position that the rush to live together caused her relationship to break down. The breakdown of her relationship, together with the stress of moving when she was preparing for her first trial, caused her to burn out. As a result, she left her employment at the end of May 2025.

30. While the Landlord's actions may have had some impact on the Tenant, I am not satisfied that they caused the breakdown of the Tenant's relationship or the termination of the Tenant's employment. The Tenant inevitably would have had to buy furniture when she left the furnished apartment which she admitted she was planning to do in one to two years. The Tenant ultimately secured a new unit in the same building as the rental unit six months after she vacated the unit. However, given the inconvenience faced by the Tenant by the N12 having been served in bad faith, I find it appropriate to award the Tenant \$1,500.00 in general compensation.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$5,560.50. This amount represents:
 - \$2,312.50 for a rent abatement.
 - \$1,700.00 for increased rent the Tenant has incurred for the two-month period from April 1, 2025 to May 31, 2025.
 - \$1,500.00 for general compensation.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by April 19, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by April 19, 2026, the Landlord will owe interest. This will be simple interest calculated from April 20, 2026 at 4.00% annually on the balance outstanding.

April 8, 2026
Date Issued

Karen Gonçalves
Member, Landlord and Tenant Board

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