



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-071826-25

In the matter of: Upstairs Unit, 117 BELL DR
WHITBY ON L1N2T1

Between: RYAN WILSON Landlords
BRANDIE WILSON

And

MELLISSA RUMAK Tenant

RYAN WILSON and BRANDIE WILSON (the 'Landlords') applied for an order to terminate the tenancy and evict MELLISSA RUMAK (the 'Tenant') because:

- the Landlords in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 5, 2026.

The Landlords, the Landlords' Legal Representative, Naseer Ahmed and the Tenant attended the hearing.

Determinations:

Request to Amend the Application

1. The Landlords sought to amend the application to seek out-of-pocket expenses of \$1,348.27 incurred by the Landlords as a result of the Tenant's failure to pay the utilities.
2. The request to amend the application was provided to the Tenant and to the Board on December 29, 2025. In this case, I was satisfied that the amendment was sought in good faith 6 days prior to the hearing and that the Tenant was aware of the request to amend and was prepared to respond to the claim for unpaid utilities.
3. As there was no prejudice to the Tenant in her ability to respond to the claim for utilities, I granted the request to amend the application to include the claim for out-of-pocket expenses for the utilities.

L2 Application – Landlords' Spouse's Use

4. As explained below, the Landlords have not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
5. The Tenant was in possession of the rental unit on the date the application was filed.
6. On August 27, 2025, the Landlords gave the Tenant an N12 notice of termination with the termination date of October 31, 2025. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by the Landlord, Brandie Wilson ('BW').
7. BW testified that issues in the tenancy have negatively impacted the Landlords' financial and personal circumstances and as a result, she and her husband, Ryan Wilson ('RW') are in the process of separating. BW testified that as a result of their separation, she requires the rental unit for her own residential occupation. BW testified that while they had tried having RW reside in the basement, they continue to experience marital issues and as a result, require the rental unit for their own occupation.
8. BW testified that while she had intended to sell the rental unit previously and had begun attempting to sell the unit in spring of 2025, she ultimately did not list the rental unit for sale as she had difficulties finding a realtor who would sell the unit while a tenant occupied the residential complex and that she had difficulties selling the house while there was a tenant residing there.
9. BW testified that because of difficulties and frustrations with selling the home and the breakdown of her marriage, she has decided to move into the rental unit which she intends to occupy for a period of at least one year. BW testified that as the house is within 3 kilometers of her current matrimonial home where RW and her kids will reside, it will be convenient for maintaining a relationship with her family.
10. The Tenant testified that she has resided in the rental unit since 2021 and had a good relationship with the Landlords until the Landlords decided to sell and began to push the Tenant to vacate the rental unit so the Landlords could sell it unencumbered by a tenancy.
11. The Tenant testified that on June 27, 2025, RW and his brother, who is a real estate agent, attended the rental unit and began pressuring the Tenant to vacate the rental unit and threatened to give an N12 notice when the Tenant refused to vacate. The Tenant testified that following this, the Landlords continued to state that the unit would be listed for sale. The Tenant testified that the Landlords subsequently served an N12 notice in July 2025 which was not pursued due to a technical defect. The Tenant testified she was told the unit would be listed for sale until August 11, 2025. The Landlords subsequently served a new N12 notice on August 27, 2025 which is the basis of this application.
12. Section 48(1) of the Act requires that, in order to be successful in this application, the Landlords have the onus of establishing that, at the time of service of the N12 notice, they required, in good faith, the unit for their spouse's residential occupation.
13. The relevant case law is clear that the test of good faith is genuine intention to occupy the residential unit (*Feeney v. Noble* (1994), 19, O.R. (3d) (Div. Ct.) ("Feeney"). As confirmed in subsequent decisions (*Salter v. Beljinac* 2001 CanLII 30231 (ONSC DC) ("Salter"), this

legal test remains unchanged under the successor legislation (see *Salter*, para. 25 and 26).

14. The subsequent case law also confirms that while the good faith of the Landlords remains the test to be applied in this application, I may also draw inferences about the Landlords' good faith from the Landlords' conduct and motives (*Fava v. Harrison* 2014 ONSC 3352 (ONSC DC) ("Fava").
15. The Landlords' own evidence is that maintaining the rental unit has caused the Landlords' financial strain, which prompted them to attempt to sell the rental unit. BW testified that she intends to "keep the rental unit for a minimum of a year" and to "see how things go" with regards to the Landlords' relationship.
16. In this case, I prefer the Tenant's version of events which suggests a close temporal proximity between the Landlords' attempts to sell the rental unit and the service of the first and second N12 notice. I found the Tenant's testimony to be credible and was satisfied based on the Tenant's testimony that the N12 notice was more likely, on a balance of probabilities, a result of the Landlords' intention to sell the rental unit without a tenant residing in the rental unit.
17. The Landlords have not proven that they in good faith require possession of the rental unit for the purpose of their spouse's residential occupation for a period of at least one year.
18. Even if I were to find that BW intended to move into the unit for at least one year, I would have denied this application under section 83 as the Landlord's intentions to move into the rental unit appear to be profit-driven based on their intention to sell the rental unit and follows a period of significant pressure on the Tenants to move out so that the Landlords may sell the rental unit vacant.

Return of Compensation

19. The Landlords have compensated the Tenant an amount equal to one month's rent by October 31, 2025.
20. Subsection 73.1 of the Act states:

If the landlord compensated the tenant under section 48.1, 49.1, 52, 54 or 55, as the case may be, in connection with a notice of termination under section 48, 49 or 50 and the Board refuses to grant an application under section 69 for an order terminating the tenancy and evicting the tenant based on the notice, the Board may order that the tenant pay back the compensation to the landlord.

21. While subsection 73.1 of the Act is discretionary, the LTB's general approach is to order that the Tenant repay the monetary compensation where the application is dismissed.
22. I am directing the Tenant to return to the Landlords the monetary compensation she was paid.

Compensation for Unpaid Utilities

23. The Landlords sought out-of-pocket expenses of \$1,348.27 which represents 65% of the utilities for the heat, electricity and water.
24. The lease agreement states at paragraph 5 that the tenant is responsible for 50% of the water, heat and electricity charges with an added note that these amounts are “subject to change based on number of people living in house.”
25. The Tenant testified that in November 2022, a new tenant moved into the residential complex and due to the number of people residing in the residential complex, the Tenant was asked to pay for 65% of the utilities. It was undisputed that the Tenant agreed to pay 65% of the utilities from November 2022 onwards which the Tenant has continued to pay.
26. The Landlords submit that as the basement tenant has vacated the rental unit, the Tenant is responsible for 100% of the utilities as she is the only person residing in the residential complex. The Tenant does not believe she should be liable for 100% of the utilities.
27. In this case, the terms agreed upon in the lease agreement were that the Tenant would be responsible for 50% of the utilities and the Tenant has, as of November 2022, agreed to pay 65% of the utilities. In my view, it is not open to the Landlord to alter the terms of the lease agreement unilaterally by requiring the Tenant to assume varying portions of the utilities based on whether or not the units are currently being occupied. The terms of the varying utilities were vague and cannot be relied upon to support a finding that the Tenant ought to be liable for 100% of the utilities. In my view, a reasonable and fair interpretation of the tenancy agreement establish that the Tenant was required to pay 50% of the utilities and has been paying a larger portion than required by the lease since that time.
28. As the Tenant has paid 65% of the utilities since November 2022 as per the agreement between the Landlords and the Tenant, I was not satisfied that the Tenant owes anything for the outstanding utilities, and the Landlords’ claim for out-of-pocket expenses for the utilities is denied.

It is ordered that:

1. The Landlords’ application is dismissed.
2. The Tenant shall repay the Landlords the compensation paid to them in the amount of \$2,043.48 on or before April 30, 2026.
3. If the Tenant does not pay the Landlords the full amount owing on or before April 30, 2026, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 2026 at 4.00% annually on the balance outstanding.

April 1, 2026
Date Issued

Christopher Lin
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.