



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-088112-25

In the matter of: 309 PRINCE ARTHUR ST
CORNWALL ON K6H4P1

Between: Uzma Choudhry Landlord

And

Burt Walker Tenant

Uzma Choudhry (the 'Landlord') applied for an order to terminate the tenancy and evict Burt Walker (the 'Tenant') because:

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

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

This application was heard by videoconference on February 10, 2026.

The Landlord's Legal Representative, Marie Beaupre, the Landlord's Support person, Haras Choudhry, the Landlord, the Tenant's Legal Representative, Lisa Duchene, the Tenant's witness, Troy Stirrett, and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy or the claim for compensation in the application. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On September 26, 2025, the Landlord gave the Tenant an N12 notice of termination with the termination date of November 30, 2025. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation.
4. The Landlord has not proven that they in good faith require possession of the rental unit for the purpose of their own residential occupation for a period of at least one year. I am not

satisfied that the Landlord has provided sufficient evidence or testimony in relation to her genuine intention to reside at the rental unit, nor did the Landlord provide a sufficient explanation as to how her needs have changed from wanting to sell the property to intending to reside there. It is undisputed that the Landlord has owned the property for around 3 years and has provided the Tenant with three N12 notices for different reasons, along with 5 attempts to sell the property with no luck doing so. When the Landlord provided the Tenant with the second N12, which was given for purchaser's own use, and the sale did not proceed, the Landlord failed to advise the Tenant of the change in circumstances.

Landlord's Testimony

5. The Landlord testified that she would like to move into the rental unit as soon as possible and live there for more than one year, with her son, as she is currently living with her daughter, son-in-law and grandchildren in Brampton Ontario, and she would like her own space as she no longer wants to babysit her grandchildren.
6. The Landlord further testified that she has ties to Cornwall as it is a small town, cheaper to reside there, and she previously lived in Cornwall and has friends there.
7. The Landlord further testified and provided documentation evidence that she had the rental property listed for sale from June 19, 2025, but the listing was set to expire October 15, 2025. The Landlord testified that she is looking to move into the rental unit instead of selling it as she requires her own residence to live in. The Landlord subsequently changed her testimony and said that the listing was set to expire on September 19, 2025, when her representative asked her to clarify the date under re-direct, and was unsure why it was listed until October 15, 2025, but it was an error of the realtor.
8. The Landlord testified that the property was listed for sale in January 2022, May 2022, August 2022, December 2024, and June 2025, however, the property has never sold.
9. The Landlord testified that there is another rental unit in the residential complex as this is a duplex, and that other unit did become vacant at some point, but she re-rented out the other unit for income. She did not rent this unit as her daughter had a baby, and she needed to move in with her daughter to assist with helping with her grandchildren.
10. During cross examination, the Landlord testified that she has given the Tenant three previous N12 notices to terminate the tenancy. The first N12 had a termination date of May 1, 2022, and it stated that she and her spouse intended to move into the rental unit. The second N12 had a termination date of December 31, 2024, and stated that the unit had been sold and the purchaser intended to move into the rental unit. The third N12 notice is the subject of the application before me, and it states that the Landlord intends to move into the rental unit.

11. The Landlord testified that she has owned this property for around 3 years, maybe more, and has been unable to sell the property so she has decided that she will be moving into the property. The Landlord testified under cross examination in relation to the sale falling through, and that she did not notify the Tenant of this.
12. The Landlord testified that while the property was up for sale, the Tenant interfered with the sale by refusing to allow entry into the unit for showings. She testified that since she has bought the property the Tenant has not allowed her into the unit but has never issued a N5 notice of termination.
13. The Landlord testified that she has tried to refinance her mortgage recently as she has been having financial difficulties for a couple years when it comes to the rental property.
14. The Landlord testified that she was able to rent out the other side of the duplex for \$2,300.00 and the units are very similar but not identical. She requires the rent from the other tenant to live.
15. The Landlord further testified that the Tenant is only paying \$487.00 a month currently for a 3-bedroom rental unit, and she has never raised the Tenant's rent as this is the amount he has been paying since he moved into the rental unit.
16. The Landlord testified that she transferred ownership of the property from the corporate name into her name, but does not recall the date, maybe last year. The Landlord registry was entered into evidence, showing that the Landlord transferred the property into her personal name from the corporation on March 11, 2025.
17. When the Landlord was asked why she transferred the property into her personal name, she testified that she wants to live at the property, so she transferred it into her name, and that her needs have changed and this is why she wants to move into the rental unit.

Tenant Testimony

18. The Tenant testified that he has been living in the unit for 28 years, and that his children grew up in this property. There have been many owners throughout the tenancy, and he believes the Landlord's motives for eviction is due to his rent being so low, as the Landlord has rented out the other side of the duplex for a lot more money.
19. The Tenant testified during cross examination that the property has been listed for sale multiple times, and that he doubts the Landlord will be moving into the rental unit as this has been going on for years, and that the Landlord has not been successful in selling the property, and there are always realtors going through the rental units.
20. The Tenant testified he has never met the Landlord, and he has never denied entry into the rental unit. He is always willing to allow entry.
21. The Tenant testified under re-direct that he has never been provided a N5 notice of termination, and he has never received a letter or document in relation to denying entry into the unit. Anytime someone came to enter the unit, he would allow entry.

22. The Tenant's son, Troy Stirrett, did provide testimony but it was in relation to section 83 considerations, and his testimony was not considered when making my determination about the Landlord's good faith intention to move into the unit.

The Law/Analysis:

23. When considering the issue of good faith, I need to consider the evidence and submissions before me at the hearing, and also section 202 of the *Act* which states:

202(1) In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

1. may disregard the outward form of a transaction or the separate corporate existence of participants; and
2. may have regard to the pattern of activities relating to the residential complex or the rental unit.

24. The issue to be determined by the Board is whether the Landlord has satisfied the "good faith" requirement pursuant to section 48(1) of the *Act* which states:

48(1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

- (a) a landlord;
- (b) the landlord's spouse;
- (c) a child or parent of the landlord or the landlord's spouse; or
- (d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child or parent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile Home Park or land lease community in which the rental unit is located.

25. The onus is on the Landlord to establish that they, in good faith, require the rental unit for the purpose of their own residential occupation and that they genuinely intend to move into the rental unit.
26. The courts have provided much guidance to the Board in interpreting the "good faith" and "genuine intent" requirement in the context of a landlord seeking possession of a rental unit for the purpose of residential occupation by the landlord.

27. In *Feeny v. Noble*, 1994 CanLII 10538 (ON SC), 19 O.R. (3d) 762, the Ontario Divisional Court considered this issue in the context of subsection 103(1) under the Landlord and Tenant Act, R.S.O. 1990, c. L.7, and held that:

“...the test of good faith is a genuine intention to occupy the premises and not the reasonableness of the landlord’s proposal”.

28. In *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC) the Divisional Court stated at paras 18, 26-27:

In my view, s.51(1) [now RTA s.48(1)] charges the finder of fact with the task of determining whether the landlord's professed intent to want to reclaim the unit for a family member is genuine, that is, the notice to terminate the tenancy is made in good faith. The alternative finding of fact would be that the landlord does not have a genuine intent to reclaim the unit for the purpose of residential occupation by a family member.

While it is relevant to the good faith of the landlord's stated intention to determine the likelihood that the intended family member will move into the unit, the Tribunal stops short of entering into an analysis of the landlord's various options.

Once the landlord is acting in good faith, then necessarily from the landlord's subjective perspective the landlord requires the unit for the purpose of residential occupation by a family member. That is sufficient to meet the s.51(1) standard. The fact that the landlord might choose the particular unit to occupy for economic reasons does not result in failing to meet the s.51(1) standard.

29. The relevant case law is clear that the test of good faith is genuine intention to occupy the rental unit in *Feeny v. Noble*. As confirmed in subsequent decisions in *Salter v. Beljinac*, this legal test remains unchanged under the successor legislation.

30. The subsequent case law also confirms that while the good faith of the Landlord remains the test to be applied in this application, I may also draw inferences about the Landlord’s good faith from the Landlord’s conduct and motives in *Fava v. Harrison 2014 ONSC*.

31. When I consider the evidence before me in its entirety, I find that the Landlord’s conduct and motives are not genuine, and I find it more likely than not that the Landlord is seeking to evict the Tenant for alternative motives and that they do not intend to move into the rental unit. I have considered the Landlord’s intention to sell the property 5 times since 2022, and the 3 N12 notices that were all given to the Tenant for different reasons. The Landlord did not explain why they did not pursue the previous N12 Notices and why they failed to advise the Tenant after the 2nd N12 was issued that the sale was not proceeding

and that the Tenant could remain in the unit.

32. The Landlord has compensated the Tenant an amount equal to one month's rent by November 30, 2025, which is not disputed by the parties, which the Tenant will be ordered to return this amount.

It is ordered that:

1. The Landlord's application is dismissed.
2. The Tenant shall provide the Landlord with the one-month compensation back on or before April 18, 2026, in the amount of \$487.00.
3. If the Tenant does not pay the Landlord the full amount owing on or before April 18, 2026, the Tenant will start to owe interest. This will be simple interest calculated from April 19, 2026, at 4.00% annually on the balance outstanding.

April 8, 2026
Date Issued

Samantha Greaves
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.