



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

File Number: LTB-L-000813-26

In the matter of: 3, 463 BEVERLEY DR
BURLINGTON ON L7R 3G7

Between: Tammy Marshall Landlords
John Marshall

and

Jesse McNair Tenant

Tammy Marshall and John Marshall (the 'Landlords') applied for an order to terminate the tenancy and evict Jesse McNair (the 'Tenant') because the Landlords in good faith require 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 March 19, 2026.

The Landlords and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the application is granted.

N12 Notice of Termination

2. The Tenant was in possession of the rental unit on the date the application was filed.
3. It is undisputed that the parties have a month to month tenancy. The lawful rent is \$1,294.51 and it is due on the 1st day of each month.
4. On December 31, 2025, the Landlords gave the Tenant an N12 notice with the termination date of March 31, 2026, stating that they require vacant possession of the rental unit for the purpose of their own residential occupation for at least one year.

5. As required by s.48.1 of the *Residential Tenancies Act*, 2006 (the 'Act'), the Landlords paid the Tenant one months' compensation on March 6, 2026.

Good Faith

6. The Landlords signed an Affidavit on January 9, 2026 confirming their good faith intention to require possession of the rental unit for the purpose of their own residential occupation for a period of at least one year.
7. Tammy Marshall testified on behalf of the Landlords. Ms. Marshall indicated that her MRIs on October 31, 2025 and December 1, 2025 showed scar tissue in her back pressing on her nerves. As a result, she requires surgery at the Hamilton General Hospital, where her doctor and specialist are located. She further stated that, following the surgery, her son, who lives on the upper floor in the building, and her spouse will assist with her recovery.
8. The Landlords currently live in a remote area approximately 4 hours from the hospital and they no longer intend to reside there. Ms. Marshall testified that she intends to move into the rental unit with her spouse and occupy it for at least one year. She also testified that she has other properties in Burlington that are currently tenanted and on a lease term.
9. The Tenant testified that the Landlord's actions appears to be retaliatory because he filed a T6 application in May 2025 and was served with an N12 notice afterwards. He also alleged that the Landlords' family has a history of moving family members into the building and requiring Tenants to vacate. The Tenant further stated that the Landlords moved another tenant out and their son into two separate units. The Landlords denied the Tenant's allegations.

Analysis

10. The N12 Notice was served under s.48(1)(a) 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) the landlord;

11. It is well settled law that requirement that the phrase "in good faith requires possession of the rental unit" contained in s. 48 of the *Residential Tenancies Act*, 2006 (the 'Act') means there is a genuine intention on the part of the landlord to move into the rental unit and use it for the purposes of "residential occupation".
12. Further, as set out in *Feeney v. Noble* (1994), 19, O.R. (3d) (Div. Ct.) and affirmed in subsequent decisions including *Salter v. Beljinac* 2001 CanLII 30231 (ONSC DC) and *Fava v. Harrison* 2014 ONSC 3352 (ONSC DC), the question is one of genuine intention. While motives and surrounding circumstances may be considered, the central issue remains whether the stated intention is genuinely held.
13. I accept the Landlords' evidence that they intend to move into the rental unit and reside there as their primary residence for at least one year. I am persuaded by Ms. Marshall's

testimony, which I found to be consistent and sincere regarding her health issues and her intention to be closer to her son who will help her during her recovery period following her surgery. I also accept the Landlords' testimony that she is tired of living in a remote area and would like to be closer to her specialist and son.

14. While the Tenant testified that the Landlord's actions were retaliatory because he filed a T6 application in May 2025, and that the Landlords have a history of moving family members into the building, he did not submit any corroborating evidence in support of his allegations, and I am not satisfied that this, on its own, establishes that the notice was served in bad faith. The existence of prior disputes is not sufficient rationale to infer the Landlord is not acting in good faith as described in *Fava*. In this case, I find that the Landlords have established, on a balance of probabilities, that it is more likely than not that in good faith they require the rental unit for the purposes of residential occupation for their own use for a period of at least one year.

Relief from eviction

15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to postpone the eviction until May 31, 2026, pursuant to subsection 83(1)(b) of the Act. I find that a postponement is reasonable to allow the Tenant to secure accommodation.
16. The Landlord sought an order to terminate the tenancy.
17. The Tenant requested that the eviction be delayed until May 31, 2026, he then stated that he requires "buffering time" until September 2026. He testified that he is unemployed and has health issues. Although he lives alone, he stated that he expects to resolve his housing situation by September 2026. He also indicated that his parents live in Hamilton, and he can live with them.
18. While the Landlord submitted that further delay would cause prejudice, no documentary evidence was provided in support of that position. Therefore, based on the evidence before me I find that a postponement to May 31, 2026 is reasonable to allow the Tenant an opportunity to secure alternative accommodation.

Daily compensation and rent deposit

19. Based on the monthly rent, the daily compensation is \$42.56. This amount is calculated as follows: \$1,294.51 x 12, divided by 365 days. Any rent payments made by the Tenant since March 1, 2026 must be applied to the compensation owing to the Landlords.
20. The Landlord collected a rent deposit of \$950.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$188.38 is owing to the Tenant for the period from May 6, 2015 to March 19, 2026.
21. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 31, 2026.
2. If the unit is not vacated on or before May 31, 2026, then starting June 1, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after June 1, 2026.
4. The Tenant shall also pay the Landlord compensation of \$42.56 per day for the use of the unit starting April 1, 2026 until the date the Tenant moves out of the unit.

April 14, 2026

Date Issued

Adeela Alvez

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

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

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on December 1, 2026 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.