



Order under Section 57 Residential Tenancies Act, 2006

Citation: CLARKE v RAJPUT, 2026 ONLTB 29100

Date: 2026-04-13

File Number: LTB-T-060062-25

In the matter of: UNIT 4, 1040 ELTON WAY
WHITBY ON L1N0L3

Between: ANTONETTE CLARKE
ANGELA CHRISTIE-CLARKE Tenants

And

MUHAMMAD RAJPUT
SAEED KHAN Landlords

ANTONETTE CLARKE and ANGELA CHRISTIE-CLARKE (the 'Tenants') applied for an order determining that MUHAMMAD RAJPUT and SAEED KHAN (the 'Landlords') gave a notice of termination in bad faith.

This application was heard by videoconference on March 11, 2026.

The Tenants, the Landlords' Legal Representative, Anome Mehrabian and the first-named Landlord attended the hearing.

Determinations:

1. As explained below, the Tenants proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay to the Tenants \$16,628.00 which includes a rent differential in the amount of \$10,380.00, general compensation in the amount of \$5,000.00, moving expenses of \$1,200.00 and the filing fee of \$48.00. The Landlord must also pay an administrative fine of \$2,000.00 to the Board.
2. The residential unit is a single family rowhouse with 3 bedrooms, 2.5 bathrooms, a kitchen, dining room, and a parking spot but no yard.
3. The Tenants commenced their tenancy on April 15, 2019 and vacated the rental unit on July 31, 2024 as ordered by the LTB. This application alleges that the Landlords served the N12 notice of termination in bad faith.

4. I have carefully reviewed the documentary evidence before me, the testimony of the parties and I have considered the parties' submissions. I refer to the material facts and relevant evidence below.

Tenant's Evidence, Antonette Clarke

5. The Tenant testified that she and her mother had to vacate their rental unit because the Landlord desperately needed their unit for his family to move into. She stated that at the previous L2 hearing, the Landlord stated that his son who was autistic was struggling living with so many people in one house. The Landlord was living with his family and children in one room, his parents lived in another room, his disabled sister lived in another room and his brother lived in another room. She stated that the Landlord testified about how his son had difficulty dealing with loud noises and they required a calmer place to live.
6. The Tenant provided a copy of the order for the Landlord's L2 application that was heard on April 4, 2024 and the order was issued on May 24, 2024.
7. Ms. Clarke stated that she and her mother were able to find another rowhouse directly beside the rental unit but it was significantly more rent. They had resided in Unit #4 from 2019 to July 31, 2024 and moved into Unit #3 which was located next to Unit #4.
8. The Tenant stated that for the month of August, Unit #4 (rental unit) was empty and then a man moved in at the end of August of 2024. This man was not the Landlord. This man resided in the residential unit from August of 2024 through April of 2025 and was in attendance during the week days but he was gone on the weekends. When the man moved in, they noted that he brought some possessions and a mattress which had been transported on the roof of their white van. The man brought his possessions and mattress in through the front door where the Tenants had a "Ring" doorbell that videotapes activity outside their door.
9. Ms. Clarke also stated that the walls between the rowhouses are very thin and they believed that one person was residing there as they did not hear much noise at all. Ms. Clarke confirmed that they never saw the Landlord or his family attend at the rental unit and only saw this young man who moved in at the end of August of 2024. The Tenant showed many short videos of the man who resided next door, entering and exiting the front door. The Tenant stated that this man shovelled the driveway at times and was the only person who was seen at the rental unit from August of 2024 to April of 2025. Ms. Clarke also stated that renovations were commenced at the rental unit between April of 2025 and July of 2025.
10. Ms. Clarke stated that she did not see the Landlord or his family at the rental unit until July 23, 2025 which was after she filed her T5 application. This video, Evidence ID #7501357 was entered into as an exhibit along with the previous video shots from the Ring doorbell camera of the man entering and exiting the rental unit. She described this visit by the whole family with both children bringing their bikes in the van. She said that the children rode their bikes a little in front of the rental unit. The older child asked his parents, "Is this our new home?" The Landlord's wife answered yes. The same child then stated "let's go

home now.” The Tenant confirmed that was the only time that the Landlord and his family spent any time at the rental unit and that they were at the unit for less than an hour.

11. The Tenants are seeking a rent differential of \$10,380.00 as their new rent is \$865.00 more per month than their previous rent. She explained that the units are identical but just flipped in their position. The Tenants are also seeking \$10,000.00 in compensation due to the emotional distress and physical distress that they have gone through. She is also seeking moving expenses of \$1,200.00 for which she provided a receipt dated July 31, 2024 from Henry Christie. Finally, Ms. Clarke is seeking “any additional penalties or administrative fines as the Board sees fit, due to the landlord’s misrepresentation, deceptive conduct and abuse of the eviction process.”
12. Ms. Clarke stated that her mother suffers from severe depression which is aggravated with change and finding a new unit with sufficient light was difficult and expensive. She further stated that the stress of having to move to another unit exacerbated her mother’s depression. Ms. Clarke stated that she is employed as a nurse and due to the stress of the situation, she had to call in sick several times to her workplace. She had many sleepless nights caused by the urgent vacating of the unit and she was overwhelmed with concern about her mother and finding a place that they could afford.
13. Ms. Clarke expressed her frustration that she and her mother should not have had to move after residing in the unit comfortably for 5 years and that she felt the Landlord’s bad faith was clear and obvious. She stated that if the Landlord’s son required a calm space to assist him with his autism, why was the Landlord and his family still residing with his parents, sister and brother in the same unit. Ms. Clarke believed that the Landlord was not telling the truth at the L2 hearing and she believes that his actions have now proved this.

Landlord’s Evidence, Muhammad Rajput

14. The Landlord testified that he provided the Tenants with the N12 notice because his four-year-old son required a quieter home and he required a quiet workplace as he works remotely. He stated that living in a home with his extended family and his own young family made it difficult for him to concentrate on his work.
15. Mr. Rajput stated that at the end of August of 2024, he started working in the residential unit full time and stayed there most of the time during the week. He stated that he moved a single mattress, a microwave, a work station, some clothes and other possessions in through the back door and that he always used the back door to enter and exit the rental unit. He stated that his brother moved into the rental unit at the end of August because he was attending a nearby college. He stated that his brother returned to the Oshawa house at the end of April of 2025. The Landlord stated that his brother always used the front door to access the unit and parked his vehicle in front of the rental unit.
16. The Landlord stated that it was his intention to move his immediate family into the residential unit but that his son who is autistic, freaked out when he entered the unit. The Landlord stated that his son did not like the terrible stains on the carpets and he did not feel comfortable in the house. He stated that his son became very frustrated and was very agitated when he was at the residential unit.

17. Mr. Rajput stated that after his son's reactions at the rental unit, he spoke with his son's teacher who advised him that he should not change his son's school at this time and that he should not force him to reside in the rental unit. The Landlord stated that he realized that he would not be able to move his immediate family into the rental unit so he decided to continue using the rental unit as "an office space."
18. The Landlord provided a copy of his T4 statement that showed his address at the rental unit, he provided his driver's licence and 3 utility bills showing that his address was located at the residential unit.
19. The Landlord also provided pictures which were found in Evidence ID#7499585 which included pictures of the family inside the rental house. Some other pictures included the Landlord sitting on a mattress on the floor working on his computer and one picture of the family sitting on a mattress on the floor. The Landlord stated that this was proof that he has been residing in the rental unit himself.
20. The Landlord stated that he decided to do renovations on the rental unit at the end of April of 2025 and those lasted for a few months. He stated that the carpets were changed and some painting was done.
21. In cross-examination, the Landlord was asked why he brought his family to the rental unit and told his son that this was their new home. The Landlord got very upset and stated that he has been through so much with these Tenants and that he just wanted to provide a picture of his son at the rental unit. He stated that the Tenants had caused him and his family a terrible amount of stress during the eviction process.
22. The Landlord was asked why he never used the front entrance and why he had never shovelled snow during the whole time that he had been living there. The Landlord became argumentative and stated that he could not remember the dates that he shovelled snow. He also stated that he preferred to use the back door as his main entrance.
23. In cross-examination, the Landlord was asked what kind of furniture he had in the rental unit. He replied that there were 3 single mattresses, one is used by himself, one is used by his brother and one mattress is used as a kind of table. He further stated that he had a microwave, a computer and stand and some clothes. He confirmed that he really did not have any furniture in the house besides what he already stated.

Evidence of Landlord's Brother, Saalar Kan

24. Mr. Kan testified that he moved into his brother's rental unit at the end of August of 2024. He stated that he was enrolled in a power engineering program at a local college. He stated that he resided there mostly during the week and was away on the weekends.
25. He stated that he resided in the unit, along with his brother, the Landlord and that he vacated the rental unit at the end of April of 2024.

26. In cross-examination, Mr. Kan was asked about the furniture that was in the unit and he confirmed that there were 3 single mattresses, a microwave, a fridge, their laptops and some clothing. He stated that all that he really did was sleep at the unit.

Analysis

27. The Tenant's evidence was straight forward and she provided a timeline of the events corroborated with videos from their Ring camera. Many videos were shown and they showed that the Landlord's brother resided in the rental unit mostly during the week and left on the weekends. The one video on July 23, 2025, almost one year after the Tenants vacated the rental unit, showed the Landlord and his family arrive at the rental house. The Landlord's children rode their bikes in front of the house and one child clearly asked his mother if this was their new home. The child's mother answered yes that this was their new home and immediately after that, the child asked his parents to take him home.

28. The Landlord's sudden attendance at the rental house after being served with the Tenants' T5 application is not surprising. The Landlord and his family attempted to make it appear as though they were residing in the rental unit and I noted that they took pictures of themselves in the rental unit with the same clothing worn that day. Those pictures, provided by the Landlord, did not include dates. Further, the other pictures included in the Landlord's evidence showed that the rental unit quite literally had 3 single mattresses as the only furniture.

29. The Landlord's evidence was vague and he was very argumentative when answering cross-examination questions. He also attempted to speak over the Tenant, he refused to answer some questions and became tearful at times.

30. Mr. Kan's evidence was vague and of little merit.

31. Subsection 57(1)(a) 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 48 of the Act;
- The Tenant 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 Tenant vacated; and
- The Landlord served the N12 notice of termination in bad faith.

32. The first, second and third criteria have been met as the Landlords served an N12 notice on the Tenants, the Tenants vacated the rental unit as a result of the N12 notice of termination, and no family member moved into the rental unit. I am not satisfied on a balance of probabilities that the Landlord was residing in the rental unit. The pictures, the videos and the Landlord's son's words provided me with a clear picture of who was

residing in the rental unit. The dispute is whether or not the Landlord gave the N12 notice of termination in bad faith.

33. For the first test of “bad faith” under subsection 57(5) of the Act it is presumed, unless the contrary is proven on a balance of probabilities, that the Landlord gave a “bad faith” notice, if at any time during the period from the date of the notice to one year after the Tenant vacated the unit, that the Landlord:
 1. advertises the rental unit for rent;
 2. enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;
 3. advertises the rental unit, or the building that contains the rental unit, for sale;
 4. demolishes the rental unit or the building containing the rental unit; or
34. The Landlord allowed his brother to reside in the rental unit for no charge and as such, subsection 57(5) of the Act does not apply to this case.
35. In Elkins v. Van Wissen, 2023 ONCA 789, the Court of Appeal found that in light of the tenant protection focus of the Act, the LTB must consider all the evidence before it that is relevant to the landlord’s bad faith. It found that a decision maker must consider the party’s conduct prior to, at the time of, and subsequent to the giving of the N12.
36. The Landlord may have been acting in good faith when he served the N12 notice of termination so that he and his family could reside in a calmer environment which may have assisted his son with autism. However, he failed to ensure that his son was in a position whereby he could relocate to another house and school. Although the Landlord stated that his son’s teacher advised against moving into the rental unit, the Landlord provided no documentation from the teacher or medical documentation setting out any reason why the Landlord’s family could not reside in the rental unit.
37. After the Tenants vacated the rental unit, the Landlord’s actions included arranging for his brother to reside in the rental unit although the Landlord charged no rent to his brother. This appeared to be an effort by the Landlord to demonstrate that he was acting in good faith by ensuring the unit was not empty.
38. The Landlord’s actions after receiving a copy of the Tenants’ application were most revealing when the Landlord and his family visited the rental unit on July 23, 2025. The Tenants’ video of this day, the Landlord’s supporting evidence that included pictures of the family taken that day in the unit and the Landlord’s vague testimony at the hearing are all evidence of the Landlord’s bad faith intentions.
39. Not only do I find that the Landlord acted in bad faith, but I also am satisfied that the Landlord attempted to deceive this tribunal with his blatant actions mentioned above. The Landlord voluntarily proffered pictures of his family as supporting evidence when those pictures were clearly taken on July 23, 2025. The family was dressed in the same clothes that they wore on July 23, 2025 when they showed the children their “new home.” This visit was prompted by the Landlord’s receipt of the Tenants’ T5 application and took place one year after the Tenants vacated the unit.

40. Having made this finding, I find that the Tenants are successful with their T5 application.

Remedies

41. With respect to rent differential, the Tenants are now paying \$865.00 more per month than they were paying for the rental unit. The Tenants' previous rent was \$1,885.00 per month and their new rent is \$2,750.00 per month. The rental units are identical. Based on these facts, I will award the requested rent differential of \$865.00 for a period of 12 months calculated as \$10,380.00.

42. The Tenants are requesting \$10,000.00 for general compensation for the emotional stress of having to move quickly and finding a new place. Ms. Clarke detailed how the move was very difficult for her mother who suffers from severe depression and how this move made her mother's depression worse. Ms. Clarke also stated that she was so overwhelmed with the situation and the effect that it was having on her mother that she had to miss work to address the situation.

43. Having considered these circumstances, I find it appropriate to order the Landlord to pay \$5,000.00 to the Tenant in general compensation for the emotional distress for the whole family, the serious disruption and the inconvenience caused by the Landlord serving the N12 in bad faith. I was not provided with sufficient evidence from the Tenant to substantiate the requested high compensation amount.

44. With respect to the moving expenses, I am granting the Tenants' request for the \$1,200.00 moving cost for which they provided a receipt.

45. The Tenants are also requesting that the Landlord be ordered to pay an administrative fine. Pursuant to the Board's Interpretation Guideline 16:

An administrative fine is a remedy to be used by the Board to encourage compliance with the *Residential Tenancies Act* (the "Act") and to deter landlords from engaging in similar activity in the future. This remedy is not normally imposed unless a landlord has shown a blatant disregard for the RTA and other remedies will not provide adequate deterrence and compliance.

46. Administrative fines are generally ordered where there is egregious conduct by a landlord. As stated previously, the Landlord acted in bad faith but he also attempted to mislead this tribunal by providing knowingly false information. The evidence adduced demonstrated the extent of the Landlord's actions to convince this Board that he has been residing in the rental unit since the Tenants vacated. Based on the Landlord's actions, I am ordering that he pay an administrative fine of \$2,000.00 to the Board. I am hopeful that this fine will encourage the Landlord to comply with the Act and to deter from future, similar behaviour.

47. The Tenants incurred a cost of \$48.00 to file this application and they are entitled to recover that cost.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$16,628.00. This amount represents:
 - \$10,380.00 for a rent differential;
 - \$5,000.00 for general compensation;
 - \$1,200.00 for moving expenses; and
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenants the full amount owing by April 24, 2026.
3. If the Landlord does not pay the Tenants the full amount owing by April 24, 2026, the Landlord will owe interest. This will be simple interest calculated from April 25, 2026 at 4.00% annually on the balance outstanding.
4. The Landlord shall also pay the administrative fine of \$2,000.00 to the Board by April 24, 2026.

April 13, 2026
Date Issued

Carrie Bertrand
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.

The fine/cost can be paid by money order, bank draft or certified cheque, only, payable to the "Minister of Finance". This can be mailed/couriered to the LTB at 25 Grosvenor Street, Ground Floor, Toronto, ON M7A 2G6 or dropped off at most Service Ontario locations.