



Order under Section 69 Residential Tenancies Act, 2006

Citation: Benitez v Brake, 2026 ONLTB 30285

Date: 2026-04-17

File Number: LTB-L-106470-25

In the matter of: 308 MENORCA DR
OTTAWA ON K2S0M1

Between: Alejandro Benitez Landlords
Maria Teresa Benitez

And

Martini Angel Marie Brake Tenant

Alejandro Benitez and Maria Teresa Benitez (the 'Landlords') applied for an order to terminate the tenancy and evict Martini Angel Marie Brake (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 March 10, 2026.

One of the Landlords, Alejandro Benitez ('AB'), the Landlords' witness (son), Kevin Benitez, the Landlords' representative, Cassandra Weatherston, 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. Therefore, the tenancy between the Landlords and the Tenant is terminated. The Tenant shall vacate the unit on or before July 31, 2026.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. It is undisputed that on December 11, 2025, the Landlords gave the Tenant an N12 notice of termination, deemed served on December 16, 2025, with the termination date of February 28, 2026. The Landlords claim that they require vacant possession of the rental unit for the purpose of residential occupation by their son.
4. The Landlords met the requirements under section 72(1) of the *Residential Tenancies Act, 2006* (the 'Act'), by filing with the Board a declaration signed by the Landlords' son stating

that he requires the rental unit for his own personal use, in good faith, for a period of no less than one year.

5. It was also undisputed that the Landlords compensated the Tenant the amount equal to one month's rent by February 28, 2026 as required by s. 48.1 and 55.1 of the Act which requires that the Tenant be compensated an amount equal to one month's' rent by the termination date of February 28, 2026.
6. The Landlords submit that the L2 application has been brought in good faith, that there is a genuine intention for the Landlords' son to live in the rental unit and request that the tenancy be terminated.
7. AB testified that his twenty-four-year-old son started a new job in January 2026, is in a relationship and wants to be independent. Given that his salary is entry-level, he is unable to pay market rent. The Landlords are willing to have him move into the rental unit where he will only have to pay expenses and be able to save. He currently takes public transit to and from work. Since that public transit from the unit is more direct, his commute time will be reduced. The Landlords do own another rental unit, but it is a one kilometer walk to the nearest bus stop and has a higher mortgage than the unit.
8. The Landlord's witness is the Landlord's son who intends to move into the unit. He confirmed that he spends about half the week living with his girlfriend at her parents' home but it is not ideal, given that she has two other siblings. He would like to move into the unit for privacy and independence and also to have the option for his girlfriend move in with him at some point. He said living in the unit will reduce his work commute because there are more available public transit routes in that area. He confirmed that he was willing to wait until the end of June 2026 to move into the unit.
9. The Tenant does not dispute that the Landlords are acting in good faith but seeks an extension of time until July 31, 2026 to move. She is currently in school and wants to avoid moving during her final exams in June 2026. Her current source of income is OSAP and child support so moving expenses will be hard for her. While she confirmed that her fiancé lives in a neighbouring area, it is outside of the school district of her children's school district.
10. Based on the evidence before me, I am satisfied that the Landlords, in good faith, requires possession of the rental unit for the purpose of their son's residential occupation for a period of at least one year.

Daily compensation and rent deposit

11. Based on the monthly rent, the daily compensation is \$57.76. This amount is calculated as follows: \$1,757.00 x 12, divided by 365 days.
12. The Landlords collected a rent deposit of \$1,525.00 from the Tenant and this deposit is still being held by the Landlords. Interest on the rent deposit, in the amount of \$241.66 is owing to the Tenant for the period from July 20, 2017 to March 10, 2026.

Relief from eviction

13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until July 31, 2026 pursuant to subsection 83(1)(b) of the Act. I say this because the Landlord's son confirmed that he could wait until July 31, 2026 for the Tenant to vacate.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 31, 2026.
2. If the unit is not vacated on or before July 31, 2026, then starting August 1, 2026, the Landlords 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 Landlords on or after August 1, 2026.
4. If the unit is not vacated on or before July 31, 2026, the Tenant shall pay the Landlords compensation of \$57.76 per day for the use of the unit starting August 1, 2026 until the date the Tenant moves out of the unit.
5. The Landlords owe \$1,766.66 which is the amount of the rent deposit and interest on the rent deposit.

April 17, 2026
Date Issued

Karen Gonçalves
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 February 1, 2027 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.