



Order under Section 57 Residential Tenancies Act, 2006

Citation: Shewchuk v Shtembari, 2026 ONLTB 28686

Date: 2026-04-21

File Number: LTB-T-069993-25

In the matter of: 5 Brampton Rd.
Etobicoke ON M9R3J2

Between: Harley Shewchuk Tenant

And

Brajen Shtembari Landlord

Harley Shewchuk (the 'Tenant') applied for an order determining that Brajen Shtembari (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on April 2, 2026. The Landlord, Represented by Geoff Paine, attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
2. 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.
3. The Tenant proved some of the requirements in subsection 57(1)(a). It is not disputed that the Tenant was given an N12 notice of termination ('N12') in or around the end of July 2023, with a termination date of November 30, 2023. It is also not disputed that the Landlord filed an L2 application pursuant to issuing the N12 notice, and the parties attended a hearing held June 11, 2024. During the hearing, the parties consented to an order terminating the tenancy on December 1, 2024. Order LTB-L-07784-23 issued on June 25, 2024.

4. Thus, the first two parts of the test under s.57(1)(a) of the Act have been met.
5. The Tenant believes the N12 notice was given as an act of reprisal because the Landlord requested a 7% rent increase in 2022. Shortly before receiving the N12 notice, the Landlord issued a rent increase of 2.5%. However, the Tenant argued this amount with the Landlord and the two agreed on a 1.5% rent increase instead. Only 18 days later, the Tenant was given the N12.
6. Further, the Tenant says he does not believe that the Landlord moved into the property in a reasonable amount of time. He asserts that the Landlord moved in a full year later in August 2025. He basis this assertion, in part, on the fact that the Landlord applied for a building permit under the “guise” of doing renovations to the basement suite. The Tenant submitted a copy of the building permit into evidence, which describes the proposed work as “new secondary suite in basement.” He has specific knowledge, based on his career as a contractor, that he suggests means the building permit is not accurate. The Tenant says the Landlord’s building permit was not for the basement, but the main floor saying, “nobody would live through that for a year.”
7. In reply, the Landlord states that the 7% rent increase was pursuant to an above-guideline-increase because the Landlord had done capital improvements. It is not clear to the Board whether this increase was ever actually implemented, but the Landlord’s evidence that capital improvements were done in 2022 was not challenged in cross-examination.
8. The Landlord also asserts he did move into the rental property. The termination date on the order issued June 25, 2024, but the Tenant vacated on August 25, 2024. Regardless, as soon the Landlord was aware of the Tenant’s intention to vacate, the Landlord began taking active steps to occupy the rental unit.
9. After visiting the house on August 25, 2024, it was apparent renovations needed to be done to either update the house, or to make it more to his liking. He began to order supplies as early as September 8, 2024. However, the renovations were extensive, and he could not live in the main floor while the work took place. So, after the Tenant vacated, the Landlord moved into the basement, as it had a fully renovated suite with a kitchen and washroom. Photos of both the basement suite and the upper portion of the home, both before and after the renovations, were submitted into evidence.
10. The Landlord finally moved back upstairs at about the end of March 2025, although the renovations were complete at about the end of December. Part of the delay was related to the fact that the rental unit did not have a fridge, among other appliances. The Tenant had, with the Landlord’s knowledge and permission, replaced some of the appliances during the tenancy. However, the original appliances were missing and so the Landlord had to order new appliances. The fridge had been backordered for several months.
11. In cross-examination, the Tenant put to the Landlord that he could have moved the missing refrigerator from the basement suite to the main floor. The Landlord refuted this stating that the depth of the two refrigerators were not the same. The Tenant submits that this was false, because he had irrefutable evidence that they were the same size. However, it became clear that the Tenant had himself misled the appliance sales company in obtaining this information. Thus, I declined to make any findings based on this evidence.

12. The Landlord also refutes the Tenant's evidence pertaining to the building permit stating his permit had always been taken out for the main floor, and that the City inspector had attended on February 6, 2026, and confirmed that no permit was necessary for the work done on the main floor.
13. The standard of proof in proceedings before this Board is "proof on a balance of probabilities." By that standard, the party bearing the burden of proof must show with evidence that, "more likely than not", their assertions are true. Where, the evidence of the opposing party is as believable as that of the party bearing the burden of proof, that burden cannot be said to have been discharged.
14. I do not find, on a balance of probabilities, that the Tenant met his onus of proof to show that the Landlord did not move into the rental unit. The Landlord's evidence was consistent throughout the hearing that he had moved into the rental unit, and that he renovated the unit for his own use. There was ample evidence that there had been extensive renovations undertaken in the upper portion of the rental unit and that is what caused the delay in moving into that section.
15. The Landlord still resided in the property even during the renovations. It was his evidence that he did not re-rent the basement suite, and it remains vacant to this day. In my view, if the Landlord had simply wanted to re-rent the unit for more money, it does not accord that he would not have re-rented the basement after moving back upstairs.
16. I am also not persuaded that the Tenant discharged his onus of proof with regard to the type of renovations and the building code requirements which may have needed to be met. Although I accept the Tenant may have a background in general contracting, I am not persuaded that his experience qualifies him as an expert to give testimony about the types of structural changes required for the proposed renovations. Further, the Tenant had no knowledge the discussions between the Landlord and the contractors, or whether the scope of the work evolved after the building permit was obtained.
17. Lastly, when looking at the building permit the Tenant submitted into evidence, it shows the permit was submitted on December 10, 2024, and specifies the basement suite is having renovations done. This aligns with the Landlord's testimony, which I accept, that a City inspector attended the rental unit and was satisfied that no building permit was needed for the upper unit.
18. I am also not persuaded that because the Landlord requested a 7% increase to the rent in 2022, that this is indicative of a bad faith eviction. The Landlord's evidence was uncontested that there had been capital improvements made to the rental property. Landlords and tenants can agree to above-guideline increases where there have been capital expenditures.
19. I am not persuaded that the Landlord gave the Tenant the N12 notice as an act of reprisal. I do not find a correlation between the rent increase and the Landlord giving the Tenant an N12. Although I agree the timing was quite close, only 18 days after the notice of rent increase was given, I am not persuaded that this necessarily means the Landlord acted in bad faith simply because the Landlord exercised his lawful rights under the Act. There was no evidence that the parties had been engaged in any ongoing disputes or that the

rent increase came on the heels of multiple other notices, lawful or otherwise, which may reflect the N12 notice was given in reprisal.

20. Finally, in closing submissions, the Tenant suggested that the photos of the renovated space showed it to be “sterile” and indicative of no one living in the space. First, this was not raised during cross-examination of the Landlord. Second, I am not persuaded that a lack of personal belongings shown in the post-renovation photos are demonstrative of the Landlord not living there. It is equally as possible the photos were taken immediately after the renovations were done which is why there are no obvious personal objects in the pictures.

It is ordered that:

1. The Tenant’s application is dismissed.

April 21, 2026
Date Issued

Jane Dean
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.