



**Order under Section 57
Residential Tenancies Act, 2006**

File Number: LTB-T-040970-24

In the matter of: 329 WILLOW AVE
TORONTO ON
M4E3K6

Between: KAMA JACKSON Tenant

And

BRENDAN ROY Landlord
AIMEE SLOGETT
AIMEE SLOGETT-ROY

VICKI BRADLEY- Purchaser
MCLELLAN

KAMA JACKSON ('KJ') applied for an order determining that BRENDAN ROY ('BR'), AIMEE SLOGETT ('AS'), AIMEE SLOGETT-ROY ('ASR') and VICKI BRADLEY-MCLELLAN (Purchaser) gave a notice of termination in bad faith.

This application was heard by videoconference on February 12, 2026.

The Landlord's Legal Representatives, Kimberley Teel (representing Brendan Roy), and Joan van Hilten Backhurst (representing Aimee Slogett), the Purchaser Vicki Bradley-McLellan, the Tenant's Legal Representative, Sarah Teel, and the Tenant attended the hearing.

Preliminary Issues

Costs and removal of party

1. At the commencement of the hearing the Tenant's Legal Representative sought to remove the Purchaser as a party to the application.
2. The parties were agreeable to have the Purchaser, removed from the application but the Purchaser sought costs against the Tenant for the Purchaser's lost wages for 3 days.
3. The Purchaser testified that she lost 3 days of employment, this matter has been before the Board 3 times, she is self-employed and is frustrated for being involved in this

application.

4. In response to the costs request from Ms. Bradley-McLellan the Tenant's Legal Representative submitted that it is not disputed that the matter is before the Board for the 3rd time. When the application was filed, the Tenant's Legal Representative ('TTR') wanted to ensure that all proper parties were listed, and the issue was that the TTR did not have all the details when the application was filed, and it was very likely that Ms. Bradley-McLellan would have been called as a witness. The TTR submitted that emails were sent to Ms. Bradley-McLellan in advance of the hearing date to advise that she would be removed as a party on February 5, 2026.
5. Subsections 2, 3 and 4 of section 204 of the *Residential Tenancies Act, 2006* (the "RTA") provide that:

The Board may order a party to an application to pay the costs of another party.

The Board may order that its costs of a proceeding be paid by a party or the party's paid representative.

The amount of an order for costs shall be determined in accordance with the Rules.

6. The LTB's Interpretation Guideline 3 provides that "generally, costs may be ordered where a party's conduct in the proceeding was unreasonable" This is generally considered to be conduct that causes undue expense or delay to another party. While the Guideline is not binding on me, I see no reason to depart from it in these circumstances. I am not satisfied that this is an appropriate case for costs. I am not satisfied that the Tenant acted frivolously or in bad faith, or frivolous intentions by the Tenant or the TTR, as I note that the TTR advised the Purchaser in advance of the hearing date that she would be removed as a party to the application.

Amending the application

7. The TTR sought to amend the application to seek the LTB's new monetary limit, which increased to \$50,000.00 in October 2025. However, given that I award less than \$35,000.00, the amendment request is moot, and I need not decide it.

Determinations:

8. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities.
9. The parties agreed to the following facts:
 - a. The Landlord served an N12 notice of termination on the Tenant with a termination date of September 14, 2023. The N12 notice was given under section 48 of the *Residential Tenancies Act, 2006* (the 'Act') and it stated that the Landlord required vacant possession

of the rental unit for their spouse's use;

b. The Tenant provided the Landlord notice on October 2, 2023, advising she would be vacating the rental unit on October 14, 2023, as a result of receiving that N12 notice from the Landlord. The Tenant vacated the property October 14, 2023;

c. The Landlord's spouse did not move into the rental unit and had not moved into the rental unit as of the date of the hearing; and

d. The Landlords sold the rental property, with a closing date in February 2024.

10. 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:

- a. The Landlord gave the Tenant an N12 notice of termination under section 48 of the Act;
- b. The Tenant vacated the rental unit as a result of the N12 notice of termination;
- c. No person referred to in subsection 48(1) of the Act occupied the rental unit within a reasonable time after the Tenant vacated; and
- d. The Landlord served the N12 notice of termination in bad faith.

11. Based on the agreed facts, the only issue in dispute is whether the N12 notice was given in bad faith. The other elements of the test in s. 57(1)(a) are not disputed.

12. I find that the presumption of bad faith in s. 57(5) is triggered by the Landlord selling the unit less than a year after the Tenant vacated. This means the burden of proof shifts to the Landlord to rebut the presumption by providing that the N12 notice was given in good faith.

Landlord AS' Evidence

13. Landlord AS denied during her testimony that she had mentioned selling the house in 2023 and testified that the conversation between herself and the Tenant was in relation to a burst pipe and damages to the front door.

14. AS testified that in June and July 2023, her and BR, the intended occupant, were having marital difficulties. She told the Tenant that BR would be moving back into the rental property and offered help to find a new place. AS further testified that at the time the N12 notice was given to the Tenant, and the signed declaration from BR that was filed with the LTB, the intention was for BR to move into the rental property.

15. The Landlord testified that the purpose of various people needing to access the rental unit in June 2023, was for the purpose of obtaining new home insurance, and an inspection of the fireplace. The Landlord testified this was the sole purpose and disputed they had alternative motives as alleged by the Tenant.

16. The Landlord testified that her relationship with her spouse is in the process of obtaining a divorce, but the relationship resulted in a peace bond and restraining order between them.
17. The Landlord testified after the Tenant vacated the rental property, she attended the rental unit sometime around October 15, 2023, to inspect its condition. It was noticed at the time of attending the rental property that there were damages to the unit, water damage on 2 kitchen cabinets, there was cat urine all over the basement carpet in addition to fleas. The Landlord testified that she had to have these issues rectified as the home could not be occupied in that condition. The Tenant provided photograph evidence of the condition of the unit after the Tenant vacated.
18. The Tenant disputed this and testified that there were no renovations or damages caused that needed to be rectified after she vacated the unit.
19. Further, AS testified that on November 29, 2023, BR was not able to obtain a mortgage without a separation agreement in place, and in addition to his salary changing. But when BR testified, he indicated that it was in mid October 2023, around the time when the Tenant vacated that they made the decision to sell the property at that time due to their marital breakdown, not having a separation agreement, and not being able to communicate and co-own the property together.
20. Under cross examination the Landlord testified, there was a real estate agent who attended the property for an appraisal due to the separation going on between her and her spouse. There had been ongoing marital issues, and she was not sure where BR was living in May and June 2023, but he was not residing with her.
21. The Landlord confirmed under cross examination that the intention was for BR to move into the property once his lease was coming to an end which was sometime at the end of October 2023 or perhaps November 2023.
22. The Landlord testified under cross examination, there was never a for sale sign on the front lawn in October 2023, it was a coming soon sign.
23. The Tenant testified that she saw the coming soon sign on the front lawn on October 20, 2023. This supports that BR did not have a genuine intention to move in as early as October 20, 2023, which is only 5 days after the TT vacated.
24. The Landlord further testified that due to the restraining order and peace bond between her and BR, she was the only one who attended the property on October 15, 2023, and the decision was that BR could not move into the property given the issues that needed to be

rectified that she originally testified to.

25. The Landlord testified that it was sometime between October 15, 2023, and October 20, 2023, that they decided they would be selling the rental property as BR was unable to get his own mortgage for the property, as a separation agreement was needed to release the down payment as he did not have the money, so ultimately he was unable to obtain a mortgage.
26. The Landlord testified the purchase, and sale was signed November 10, 2023, the official sold date was November 26, 2023, with a closing date of February 14, 2026.

Landlord BR's testimony

27. BR testified that he separated from his spouse sometime in December 2022, and the initial plan with the rental property was not to do anything with it right away until they figured out their plan, the next steps, and he was residing in a temporary rental property for the time being.
28. BR testified that at the time the N12 notice was given, and the declaration was provided, his intention was to move into the rental property and reside there as the rental property is closer to his work and a shorter commute.
29. Sometime in mid to late October 2023, circumstances started to change, and he was not able to move into the property as everything unfolded in his life. BR testified that due to the relationship deteriorating, they were no longer able to co-own the property together, and the decision was made to sell the property so they could move on with their lives. BR did not provide a specific date but testified that it was right around the time the Tenant vacated the rental property, and they had possession of it again.
30. In addition, BR testified that his marital dynamic changed, and due to these changes, other decisions had to be made, for example BR needing to obtain his own mortgage for the property, with the division of their assets there was no way things could be afforded, and when things really started to deteriorate with his marriage the rental property was no longer a comfortable place to be anymore even though his intention was to move into the rental property, and ultimately buy the property from his spouse rather than jointly owning it.
31. BR testified that in addition to those reasonings noted above, he just could not mentally and physically move into the rental property as it was no longer a place he could live due to certain memories, and it became the last place he wanted to be. BR further testified that his personally situation was mentally affecting him, and he was in therapy on his own due

to the separation and having a hard time.

32. BR testified he has acted in good faith throughout this process and that at the time the N12 notice was issued, and after the Tenant vacated, their personal circumstances changed, and they needed to make the tough decision to sell the property.
33. Under cross examination, BR confirmed that conversations about him moving into the rental property happened in June 2023, and the intention was for him to be closer to work, and it was the most sensible option for them.
34. BR testified that around July 11, 2023, he knew that repairs needed to be made in the rental property as he had already been inside the rental property and knew of the condition at that time, so he was aware he needed to complete repairs. Once he attended the property after the Tenant vacated, additional repairs had to be done.
35. BR testified that his intention was to move into the property mid to late October 2023, as the condition of the home was unliveable at the time the Tenant vacated. Again, BR did not provide a specific date but testified previously it was around the time the Tenant vacated, and they had taken over possession of the rental property. In addition, BR testified that things changed in his priorities, his marriage was no longer one that they could communicate with each other, which meant they could not be co-owners of the rental property together, and he would need to purchase the home and obtain his own mortgage, which he was not able to obtain without a separation agreement.
36. Neither AS nor BR submitted documentary evidence in support of their evidence regarding BR's financial circumstances or his inability to obtain a mortgage.

Analysis on good faith

37. For the reasons that follow, I am not satisfied that the Landlord has rebutted the presumption that they served the notice in bad faith, and therefore the Tenant's application is granted.
38. In *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), [2001], O.J. No. 2792 (Div. Ct.), the Divisional Court held that the test of good faith is genuine intention to occupy the premises and not the reasonableness of the landlord's proposal. Thus, the Landlord must establish that the purchaser genuinely intends to move into the unit. The Court also held in *Salter* that the Landlord's motives are 'largely irrelevant'.

39. In *Fava v. Harrison*, [2014] O.J. No. 2678 ONSC 3352 (Ont.Div.Ct.) the Court confirmed that while the motives of the Landlord are, per *Salter*, “largely irrelevant”, the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property.
40. Moreover, *Elkins v. Van Wissen*, 2023, the Court of Appeal for Ontario held that it is an error of law on a bad faith application for the LTB to constrain its consideration to the point in time when the N12 notice was served. At para 46, the Court cited with approval the following paragraph from LTB jurisprudence:
20. Limiting the question of good faith to an exploration of the mind of the Landlord at the instant of serving the N12 notice, and to ignore all the surrounding circumstances, would lead to results inconsistent with the objects of the Act. To require the Tenant to establish what was in the mind of the Landlord at the instant of the N12 notice service, without regard to the surrounding circumstances and to the behaviour of the Landlord between the service of the N12 notice and the termination date, would upset the balance of interests which the Act aims to achieve. The good faith obligation attaching to an N12 notice must surely survive the instant of its service.
41. As a result, in my view to rebut the presumption of bad faith in this particular case, the Landlord must establish that they had a genuine intention for BR to occupy the rental unit up until the Tenant vacated the rental unit, and that their change in circumstances resulting in BR no longer needing the unit took occurred after the Tenant vacated.
42. AS and BR’s testimonies were not consistent and the reasoning for BR not moving into the rental unit were not consistent either. AS testified that around October 15, 2023, when she entered the rental property, she found it in a condition to be inhabitable and that she made the determination that BR could not move into the rental property at that time due to the issues found. Further, AS testified that on November 29, 2023, BR was not able to obtain a mortgage without a separation agreement in place, and in addition to his salary changing. But when BR testified, he indicated that it was in mid October 2023, around the time when the Tenant vacated that they made the decision to sell the property at that time due to their marital breakdown and not being able to communicate and co-own the property together, in addition to not being able to obtain a mortgage. But further, BR provided contracting testimony and indicated it was around that time that they could not be co-owners of the rental property together, and he would need to purchase the home and obtain his own mortgage, which he was no able to obtain without a separation agreement.
43. The Tenant testified that there was a “coming soon” sign put on the front lawn on October 20, 2023, which AS did not dispute. In my view, this establishes that October 20, 2023,

was the latest day upon which AS and BR could have had a genuine intention for BR to move into the rental unit, four days after the Tenant had vacated. This is because on October 20, 2023, they indicated that the rental unit would be listed for sale as the coming soon sign was a clear indication the property was going to be listed for sale.

44. AS testified the purchase and sale documents were signed November 10, 2023, the official sold date was November 26, 2023, with a closing date of February 14, 2026. This testimony from AS would contradict her own testimony she provided in relation to the dates provided as to when the decision to sell the property was made.
45. There was a text message submitted as evidence (DOC ID 6244383, page 10) dated November 29, 2023, where there was a discussion between the LLs about porting the mortgage and the separation agreement, which within the message mentions, "well we need to get that done before the house closes".
46. On the matter of the sale of the property and based on the totality of evidence and testimony presented, I am satisfied that the Landlord served the N12 notice in bad faith. While I can appreciate that there may have been a change in the personal circumstances between the Landlords, I am not persuaded, based on the contradicting time line of the events after the N12 was served, and the inconsistent testimony of the Landlord's about the reasoning why the property was sold, and the timeline on when they made the decision to sell the property.
47. In the circumstances, I am not satisfied on a balance of probabilities that the Landlord experienced an unforeseen change in circumstances in the very short period of time between when the Tenant vacating and the "coming soon" sign. I do not believe, in the absence of supporting evidence, that the that the Landlord's genuine intention changed during that time period because of the state of the unit and his failure to obtain a mortgage. In the circumstances, I am satisfied that the LL has not established that the N12 was served in good faith, and therefore the TT has proved their application.
48. I have considered all evidence, testimony and written closing submissions that were submitted within the time frame provided from all parties in making my determination, even though it might not be specifically mentioned in the order.

Remedies

Rent Differential

49. The Tenant sought the difference in rent between the rental property and her new rental property for a period of 12 months. However, the request is denied because the Tenant actually pays less rent for her new unit than she did in the rental unit. However, I do

consider the differences in the two units under the Tenant's request for general compensation.

General Compensation

50. The Tenant also sought general compensation for the impact that the Landlord's breach had upon them. The Tenant testified that their previous rental unit was approximately 3300 square feet, whereas the new rental property is approximately 1700 square feet. The properties have the same number of bedrooms, but the new unit is much smaller and has 1 less bathroom. Moreover, new unit does not have a garage or finished basement, both of which she enjoyed at the previous unit. The former unit was a single-family dwelling, whereas the new rental unit is in the middle of a row of houses. While the Tenant's new rent is \$100 dollars per month less than her previous rent, her new home is almost half the size in terms of square footage.
51. The Tenant testified after receiving the N12 notice, it had a significant impact on her. She was stressed out, wasn't sleeping, wasn't able to focus at work and had to cut back her clients, in addition to having panic attacks. The cost of living and the monthly rent was higher, and there was nothing within her price range and within the school location. She testified that she started looking for a new place to reside as soon as she received the N12 notice.
52. The Tenant testified that she had cleaning included in her rent at the rental property, whereas the new rental unit does not offer this. The quality of her life and her living space was significantly impacted along with her children as they have had to move a couple times in the past years and found it overwhelming to find a new place to reside.
53. The Tenant further testified that she had a hard time managing everything, as she is a single mom, and she was concerned that her children might have to live with the other parent if she couldn't find a place, and she was upset about the possibility of losing her children, and them having to live with their other parent.
54. I am satisfied that the Landlord's breach had a significant impact on the Tenant. She pays substantially the same rent for a substantially smaller unit. The Tenant sought general compensation in the amount of \$51,600.00 but waived the excess to \$35,000.00 on the original application. The original application sought this amount by calculating the last amount of rent charged of \$4,300.00 and multiplying it by 12 months.
55. However, considering the impact that the Landlord's breach had on the Tenant, I am satisfied that an award of \$15,000.00 is reasonable and appropriate.

Rent Abatement

56. The Tenant sought a rent abatement in the amount of \$4,300.00, for a period of 12 months on the application. There was no evidence or testimony from the Tenant in relation to this request, therefore the request for an abatement is denied.

Out of pocket Expenses

57. The Tenant sought out-of-pocket moving and storage expenses. The Tenant did not provide any proof or documentation of this out-of-pocket expense, therefore, I am not satisfied to order this amount to be paid by the Landlord as there was no proof before me to support this claim.
58. The Tenant sought for an order for the Landlord to pay utility charges as the Tenant was responsible for utility amounts that were previously included in lawful rent, the Tenant claims utility amounts during a one-year period, from September 17, 2023, to September 16, 2024. I am not satisfied to order this amount, as the Tenant failed to provide sufficient evidence, and supporting documentation to support this amount being sought and that she paid this out-of-pocket expense.

Administrative Fine

59. The Tenant sought that the Board order a fine against the Landlord. A fine is intended to deter landlords from violating the Act and are generally used when other remedies are not sufficient. I find that the other remedies being ordered against the Landlord are sufficient and should deter the Landlord from violating the Act in the future. Therefore, I am not satisfied to order the Landlord to pay a fine to the LTB.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$15,048.00. This amount represents:
 - \$15,000.00 for general compensation.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by May 19, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by May 19, 2026, the Landlord will owe interest. This will be simple interest calculated from May 20, 2026 at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

May 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.