



Order under Section 57 Residential Tenancies Act, 2006

Citation: Starck v Li, 2026 ONLTB 29280

Date: 2026-05-06

File Number: LTB-T-043775-23

In the matter of: 1409, 75 The Donway Apt 1409 THE
DONWAY W
TORONTO ON M3C2E9

Between: Ilker Starck Tenant

And

Xue Michelle Li Landlord

Ilker Starck (the 'Tenant') applied for an order determining that Xue Michelle Li (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on April 8, 2026.

The Landlord, the Landlord's Legal Representative Giuseppe Rizutto, and the Tenant attended the hearing.

Sefer Bayindir attended as a witness for the Landlord.

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. The parties agreed upon the following:
 - a) The Tenant was served a N12 notice of termination for Landlord's own use on August 19, 2022.
 - b) The Tenant vacated October 31, 2022, pursuant to the N12.
 - c) The monthly rent at the time the Tenant vacated was \$2850.00.
 - d) There was a listing for the rental unit in May 2023.
3. The Tenant testified they signed the lease for the rental unit in November 2020; the intention was for it to be a long-term tenancy; they were going through a separation and

their 6-year-ols son was having difficulties adjusting. Therefore, the Tenant was shocked when the Landlord served the notice of termination. The Tenant believed the Landlord was having money issues, and offered to pay the Landlord more in rent; the Landlord did not accept the offer. The Tenant moved to a smaller unit in the same neighbourhood so their son could stay in the same school. The new place was a downgrade from the rental unit, and a lot of furniture had to go into storage. The Landlord is a realtor, so she knows the rules, including the requirement to stay in the unit a minimum of 1-year; the unit was listed for rent in May 2023, for \$4,500.00 per month on Realty.ca, only 6-months after the Tenant vacated. The application should be granted and the requested remedies awarded; there is a presumption of bad faith if the Landlord acts contrary to the rules for a N12, which they did.

4. The Tenant corroborated their testimony with documentary evidence of communications with the Landlord, some receipts and the rental listing. At the hearing the Tenant requested as remedies: \$800.00 moving costs of; \$20,200.00 general compensation for the difference in 12-months rent between their old rent and the new rent the Landlord is receiving; and 12 months of storage costs \$2,495.04. The Landlord's Legal Representative disputed the request for storage as this was not included in the application, and the application had not been amended; the remedies should be as set out in the application.
5. The Landlord's witness Sefer Bayindir (SF) testified he was the superintendent at the time this was all going on. The Landlord moved into the rental unit approximately November 20, 2022; about 2-weeks after the Tenant vacated. He saw the Landlord moving her belongings in and also saw her coming and going while she lived there. SF is not aware of a reservation for the elevator for her moving out, he only saw the Landlord moving into the unit. On cross examination, SF confirmed a new tenant was in the unit approximately June/July 2023.
6. The Landlord testified she served the N12 because she fully intended on moving into the rental unit permanently. As seen by the photographs of her furniture, personal belongings and her dog, in the unit, she did move in and live at the unit; she lived there approximately 8-months. On November 8, 2022, as seen by the medical document, her mother was diagnosed with cancer. The doctor told her she did not have much time to live; therefore, the Landlord moved to China to be with her. The diagnosis was a total surprise, totally unexpected.; the Landlord referred to plane tickets confirming her flight. The Landlord's life in Canada went on hold while in China; she took a 3-month leave of absence from work so she could be with her mother; she cooked, cared for, and spent all her time with her mother during her last days. The Landlord could not afford to leave the rental unit empty; therefore she rented to someone else. On cross examination, the Landlord confirmed she was aware of the rules if a N12 notice of termination, but it was not right she stay in the rental unit to satisfy the rules when her mother is passing away in another country. The Tenant's application should be dismissed; nothing was done in bad faith.

Analysis

7. 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.
8. For the purposes of an application under 57(1)(a), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in subsection (6) the landlord,
- (a) advertises the rental unit for rent;
 - (b) enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;
 - (c) advertises the rental unit, or the building that contains the rental unit, for sale;
 - (d) demolishes the rental unit or the building containing the rental unit; or
 - (e) takes any step to convert the rental unit, or the building containing the rental unit, to use for a purpose other than residential premises.
9. There is no dispute that: the Landlord served the Tenant with a N12 notice of termination for own use; the Tenant vacated pursuant to the notice; the Landlord moved into the rental unit; and, the Landlord moved out of the rental unit approximately 8 months after moving in. However, I do not find that the Landlord gave the N12 in bad faith as is required by in subsection 57(1)(a).
10. I accept the Landlord testimony that she was not expecting her mother's unexpected diagnosis of cancer and her only having a short time to live. I find it reasonable and understandable that the Landlord wanted to spend this time with her mother. I also accept that the Landlord intended on living in the rental unit permanently, had it not been for this unexpected and sad situation/change of events. For these reasons, I find the Tenant did not prove bad faith on a balance of probabilities; there was no bad faith on the Landlord's part, she was faced with an unexpected event beyond her control. Based on this unexpected change, I further find the Landlord successfully rebutted the presumption in s57(1)(a) of the Act; accordingly, the Tenant's application must be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

May 6, 2026
Date Issued

Diane Wade
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.