



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-009649-26

In the matter of: 2, 134 PORTLAND ST
ETOBICOKE ON M8Y1B2

Between: John Fasulo Landlord

And

Cindy Cloutier Tenant

John Fasulo (the 'Landlord') applied for an order to terminate the tenancy and evict Cindy Cloutier (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on May 4, 2026.

Only the Landlord attended the hearing.

As of 1:22 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated, and the Tenant must move out of the unit on or before June 1, 2026.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On January 30, 2026, the Landlord gave the Tenant an N12 notice of termination deemed January 31, 2026 with the termination date of March 31, 2026. The Landlord claims that they require vacant possession of the rental unit for the purpose of their own residential occupation.
4. The rental unit is described as the middle unit of a triplex. The unit contains two bedrooms and one bathroom.

5. There is no last month's rent deposit.

Compensation:

6. The Landlord testified that he did not provide the Tenant with an amount equal to one month's rent as compensation prior to the March 31, 2026 termination date in the N12 notice.
7. Section 48.1 of the Act states:

A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48.

8. Section 55.1 of the Act states:

If the landlord is required to compensate a tenant under section 48.1, 49.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48, 49 or 50.

9. Section 83(4) of the Act states:

The Board shall not issue an eviction order in a proceeding regarding termination of a tenancy for the purposes of residential occupation, demolition, conversion to non-residential rental use, renovations or repairs until the landlord has complied with section 48.1, 49.1, 52, 54 or 55, as the case may be.

10. The Landlord did not provide a satisfactory reason as to why he did not comply with the statutory requirement to pay compensation. However, the Landlord testified that the Tenant raised the issue with him in an email dated April 22, 2026 in which the Tenant requests that the compensation be provided to her in the form of the Landlord waiving rent for the month of May 2026. The Landlord then emailed the Tenant on April 25, 2026 with a formal acknowledgment that the rent for May 2026 would be waived as compensation for the N12 notice of termination. A copy of the email exchange was submitted at the hearing as evidence.
11. By the Landlord's own testimony and supporting documentation, I am satisfied that the Landlord did not comply with the statutory requirement to provide compensation prior to the termination date listed in the N12 notice, per s. 55.1 of the Act. The question now turns to whether I would use the discretion afforded to me by s. 190(2) of the Act to extend the deadline for the payment of compensation in s. 55.1 and allow the compensation to be deemed paid after the termination date. Having considered the evidence before me, and for the reasons outlined below, I am electing to exercise my discretion to extend the deadline.
12. The statutory requirement that the Landlord pay compensation within a defined timeframe is unambiguous and a measure designed to protect a tenant. In this instance, the Tenant was aware of her right to one month's rent as compensation and explicitly requested for

the Landlord to fulfill that requirement by waiving a month's rent after the termination date had passed. The Tenant's email goes on to state her intention to vacate the unit by June 1, 2026 and use the N12 compensation to relieve her from paying rent for May 2026. The Landlord expressly agreed to the Tenant's request in his reply and confirmed at the hearing that he has waived the rent for that month. Thus, considering the intent of the legislation is to provide the tenant with some financial relief for a no-fault termination of the tenancy by the Landlord, I am satisfied that the Tenant knowingly received the benefit of the one month's rent compensation via the parties' express agreement to waive the rent for May 2026. Therefore, I am satisfied that the Landlord has complied with the statutory requirement under the Act to provide compensation for the N12 notice.

Good Faith:

13. The onus is on the Landlord to establish on the balance of probabilities that he, in good faith, requires the rental unit for his own residential occupation for at least one year, pursuant to s. 48 of the Act.
14. The case law is clear that the test of good faith is the genuine intention to occupy the residential unit and not the reasonableness of the landlord's proposal (*Feeney v. Noble* (1994), 19, O.R. (3d) (Div. Ct.). As confirmed in subsequent decisions (*Salter v. Beljinac* 2001 CanLII 30231 (ONSC DC), this legal test remains unchanged, and the "good faith" requirement simply means that the Landlord must establish that he has a genuine intention to occupy the rental unit for at least one year. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the Landlord's good faith. While the good faith of the Landlord remains the test to be applied, I may also draw inferences about the Landlord's good faith from the Landlord's conduct and motives (*Fava v. Harrison* 2014 ONSC 3352 (ONSC DC).
15. The Landlord currently lives in his matrimonial home, though he and his wife are going through a divorce. His two adult children also live with their parents in the home.
16. The Landlord testified that he intends to move into the rental unit for well over twelve months as he needs to move on with his life and have a place of his own. He also intends to use the second bedroom in the unit to accommodate his children should one or both choose to stay with him.
17. The other two units in the triplex are also tenanted. The Landlord selected the Tenant's unit, because the lower unit is considerably smaller and does not suit his needs, and the tenant in the upper unit is currently undergoing cancer treatment. The Landlord believes it would cause substantial hardship for the upper unit tenant to move given her illness, and the Landlord does not wish to cause her further stress.
18. Based on the uncontested evidence and submissions before me, I am satisfied that the Landlord genuinely intends to reside in the rental unit for a period of at least one year in order to move out of his matrimonial home after his divorce is finalized. I have no reason to doubt the truthfulness of the Landlord's testimony or his good faith intentions regarding this application. Therefore, I am satisfied, on a balance of probabilities, that the Landlord requires possession of the rental unit in good faith for his own residential occupation for at least one year.

Relief from Eviction:

19. 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 June 1, 2026 pursuant to subsection 83(1)(b) of the Act.
20. As mentioned, the Tenant was not present at the hearing, though properly served with a Notice of Hearing by the Board, to put forward any circumstances for consideration under s. 83 of the Act.
21. The Tenant has been living in the unit for at least three years.
22. When asked if the Landlord has any knowledge of the Tenant's personal circumstances, the Landlord stated that he is aware that the Tenant has had a hip replacement, but her mobility has improved since the surgery. He is not aware of any other personal or financial circumstances of the Tenant for consideration under s. 83 of the Act. However, the Landlord stated he has no issue with delaying the eviction to June 1, 2026, since that is the date by which the Tenant informed him in her email that she would be vacating the unit.
23. Having considered the submissions before me, particularly the spirit of the Act and the Landlord's willingness to delay the eviction to the date requested by the Tenant, I find that it would not be unfair to postpone the eviction to June 1, 2026.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before June 1, 2026.
2. If the unit is not vacated on or before June 1, 2026, then starting June 2, 2026, the Landlord 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 Landlord on or after June 2, 2026.

May 8, 2026
Date Issued

Fotoula Hatzantonis
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 December 2, 2026 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.