



Order under Section 57 Residential Tenancies Act, 2006

Citation: LEONCE v HAMATI, 2026 ONLTB 39342

Date: 2026-05-19

File Number: LTB-T-060174-24

In the matter of: 204 KINGSWELL ST
GLOUCESTER ON K1T0L1

Between: JENNA LEONCE Tenant

And

ISSA HAMATI Landlord

JENNA LEONCE (the 'Tenant') applied for an order determining that ISSA HAMATI (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on April 1, 2026.

The Landlord, the Landlord's Legal Representative, Gabriel Bichet, and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay the Tenant \$3,748.00 by May 30, 2026.
2. On or about January 31, 2024, the Landlord served the Tenant a N12 Notice of Termination ("N12") with a termination date of March 31, 2024. The N12 stated that the Landlord in good faith, required possession of the rental unit for their child, for the purpose of residential occupation for a period of at least one year.
3. Pursuant to section 57(1) of the *Residential Tenancies Act, 2006* (the "Act"), the Board may make an order against a landlord if, on application by a former tenant of a rental unit, the Board determines that,

the landlord gave a notice of termination under section 48 in bad faith, the former tenant vacated the rental unit as a result of the notice or as a result of an application to or order made by the Board based on the notice, and no person referred to in

clause 48 (1) (a), (b), (c) or (d) occupied the rental unit within a reasonable time after the former tenant vacated the rental unit.

4. Subsection 57(1)(a) of the Act establishes a four-part test. In order to be successful in their T5 application, the Tenant must establish all of the requirements of subsection 57(1)(a) on a balance of probabilities:

- the Landlord gave a notice of termination under section 48 of the Act (the N12);
- the notice was given in bad faith;
- the Tenant vacated the rental unit as a result of the N12 notice or Board Order based on the N12 notice; and
- the person named in the N12 notice did not move into the rental unit within a reasonable time after the Tenant vacated.

5. On an application to the Board, the person who alleges a particular event occurred has the burden of proof to establish that it is more likely than not that their version of events is true. In this application, the burden typically falls on the tenant to establish that the notice of termination was served in bad faith.

6. In this case, it was undisputed that the Landlord gave the Tenant the N12. It was also undisputed that the Landlord's child did not move into the rental unit after the Tenant vacated. The Landlord confirmed their child entered into a tenancy agreement elsewhere for April 1, 2024 and the rental unit was listed in July 2024 and rented to a new tenant in August or September 2024.

7. With respect to the issue of bad faith, subsections 57(5) and 57(6) of the Act establish a rebuttable presumption of bad faith on the following ground:

57(5) For the purposes of an application under clause (1)(a) and (c), 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;...

57(6) The period referred to in subsection (5) is the period that,

- (a) begins on the day the landlord gives the notice of termination under section 48; and
- (b) ends one year after the former tenant vacates the rental unit.

8. In other words, if section 57(5) applies, the burden falls on the Landlord to establish that they did not serve the N12 in bad faith.

9. In this case, the Landlord acknowledged that the rental unit was listed in July 2024 and rented to a new tenant in August or September 2024, which is less than six months after the Tenant vacated the rental unit. As such, I find that the presumption of bad faith under section 57(5) of the Act is engaged for this application. Therefore, the Landlord is required to prove good faith on a balance of probabilities for the N12 served to the Tenant.
10. The Tenant vacated the rental unit on or about May 2, 2024.
11. It is clear that the Landlord knew their child no longer had intentions to move into the rental unit in March 2024 before the parties entered into an agreement for the Tenant to vacate the rental unit. The Landlord confirmed that their child started looking for alternative housing in March 2024 and signed a tenancy agreement to move elsewhere on April 1, 2024. The agreement was signed by the parties on April 19, 2024. The Tenant agreed to vacate the rental unit for the Landlord to waive the balance of April 2024's rent and to withdraw the L2 application.
12. The Landlord, at no point, informed the Tenant that their child no longer required the rental unit or rescinded the N12. The Landlord knew or ought to have known that they were not entitled to terminate the Tenant's tenancy under the circumstances. The Landlord opted to withhold this information and nevertheless continued to advance the Tenant's move out under the guise of their child needing the rental unit. The Landlord, knowing there was no grounds for the Board to terminate the tenancy, also filed an L2 application with the Board based on the N12 on April 16, 2024.
13. A message from the Landlord to the Tenant on or about April 16, 2024 states: "I can't leave my daughter in the street. I hope you understand". At best, I find that the Landlord was wilfully blind to its duties and obligations and readily exploited the Tenant's ignorance of their child's intentions to terminate the tenancy. In my view, the manner by which the Landlord conducted and negotiated the termination of the tenancy strongly suggests an intention to circumvent the Tenant's protections under the Act.
14. The Ontario Court of Appeal confirmed in *Elkins v. Van Wissen*, 2023 ONCA 789, that the Board must consider all relevant evidence when determining whether an N12 notice was served in bad faith. The assessment is not limited to the Landlord's intent at the time of service but includes the events that followed. I do not accept the Landlord's defence of "change of circumstances". Even if the Landlord's child required the rental unit at the time the N12 was served, the Landlord had ample time to inform the Tenant of their child no longer needing the rental unit or to rescind the N12. The Landlord did neither.
15. As such, I am not satisfied that the Landlord has rebutted the presumption of bad faith and has established that the N12 was given in good faith. I find the Landlord gave the Tenant the notice of termination in bad faith.
16. While the Landlord submits that the Tenant vacated due to the cash for keys agreement, I find that the underlying reason for the Tenant to agree to vacate was an understanding that the Landlord's child required the rental unit. The Landlord confirmed there were no rent arrears at the time the N12 was served and there was no evidence before the Board that the Tenant had any intentions of moving out but for the N12. As such, I find that the Tenant vacated the rental unit as a result of the N12.

17. The Tenant has established each part of the test contained in section 57(1)(a) of the Act and is entitled to a remedy described in subsection 57(3) of the Act.

Remedies

18. The Tenant requested an order for the difference in rent the Tenant paid for one year after vacating the rental unit, moving and storage expenses, and general compensation.

Rent Differential

19. Subsection 57(3) of the Act provides that the Board can order: An order that the landlord pay a specified sum to the former tenant for all or any portion of any increased rent that the former tenant has incurred or will incur for a one-year period after vacating the rental unit.
20. The Tenant's evidence was that they moved into a friend's home from May 1, 2024 to March 31, 2025 and paid \$1,000.00 a month in rent. This is less than the monthly rent the Tenant paid for the rental unit. There is no increased rent for the Board to order.
21. The Tenant testified that they secured another rental unit and moved into this unit on April 1, 2025 and paid \$2,750.00 for rent. I found the Tenant to be credible and therefore reliable. Given the circumstances, I see no reason not to grant the Tenant the remedy requested in this regard for one month (i.e., April 2025) as the Board is limited to the one-year period after the Tenant vacated the rental unit. The Landlord led no evidence to indicate the rent the Tenant paid is in any way unreasonable.
22. As for the amount, the Tenant testified that the monthly rent for the rental unit when they vacated was close to \$1,800.00. The Landlord testified that they only increased the rent once throughout the tenancy and that the rent was \$1,735.00 when the Tenant vacated. Given that the Tenant's recollection of the rent amount was vague, I prefer the Landlord's evidence and find that it is more likely than not that the rent for the rental unit when the Tenant vacated was \$1,735.00.
23. The difference in rent between the rental unit and the Tenant's new rental unit is \$1,015.00. Considering the fact that the Tenant's new rental unit is bigger and hence, there was some betterment in that regard, I find that awarding a portion of the increased rent in the amount of \$700.00 to be fair in the circumstances. An order will issue requiring the Landlord to pay to the Tenant \$700.00 for rent differential for one month.

Moving and Storage Expenses

24. The Tenant sought \$944.00 in moving costs. The Tenant testified that they hired a moving company to move their belongings from the rental unit to a storage facility and then from the storage facility to their new rental unit.
25. The Tenant also sought \$8,400.00 for storage expenses. The Tenant testified that they had to store their belongings while they stayed at their friend's home.
26. Given that the Tenant provided no documentary evidence to demonstrate any of the moving and storage costs claimed, I find it inappropriate to grant this remedy and this claim is dismissed. I am also not satisfied that the Tenant established that a storage

facility, or the size of the storage space the Tenant rented, was necessary. The Tenant provided no evidence of the efforts they made to secure another comparable rental unit after receiving the N12 or that there was no space at her friend's home to accommodate her belongings or that there were no other more economical alternatives. Pursuant to section 16 of the Act, parties have a duty to mitigate losses.

General Compensation

27. It is important to note that as reference in the Act, an order under section 57(3) (1.1) of the Act may be made regardless of whether the Tenant has incurred any actual expenses.
28. The Tenant requested \$5,900.00 for pain and suffering. The Tenant testified that she was experiencing stress and health issues exacerbated by the need to vacate and find alternative accommodations. Although I accept the Tenant's evidence that the N12 had a negative effect on them, I do not find that general damages in the amount of \$5,900.00 to be warranted in these circumstances. The Tenant provided no documentary evidence of their struggles to find alternative accommodation or of their health issues being affected by the N12. Based on the evidence before the Board and given the length of the tenancy, I find that an award of \$3,000.00 to be reasonable and an order for this amount will issue accordingly.
29. The Tenant also requested the Landlord pay the Tenant \$7,200.00 for a deposit the Tenant paid in a rental scam. The Tenant submits that but for the N12, the Tenant would not have had to look for another rental unit and been scammed by a fraudulent landlord. While I sympathize with the Tenant's circumstances, I do not find it appropriate to hold the Landlord responsible for a scam they had no part in. In my view, if the Tenant had done their due diligence, the Tenant may have been able to avoid being scammed.

Costs

30. The Landlord requested costs for the Tenant's application. The Landlord submitted that the matter was adjourned once due to the Tenant having technical issues. As noted in interim order LTB-T-060174-24-IN issued on February 25, 2025, the Tenant contacted the Board's technical support and signed into the February 20, 2025 hearing late due to technical difficulties. I do not find this to be unreasonable conduct that would warrant costs.
31. Given that the Tenant's application is successful and not frivolous, the Landlord's request for costs is denied.
32. As the Tenant's application is successful, the Tenant is entitled to reimbursement for the costs of filing the application in the amount of \$48.00.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$3,748.00. This amount represents:
 - \$700.00 for increased rent the Tenant have incurred for the one-year period from May 1, 2024 to April 30, 2025.
 - \$3,000.00 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 30, 2026.
 3. If the Landlord does not pay the Tenant the full amount owing by May 30, 2026, the Landlord will owe interest. This will be simple interest calculated from May 31, 2026 at 4.00% annually on the balance outstanding.

May 19, 2026
Date Issued

Vicky Liu
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.