



Order under Section 57 of the Residential Tenancies Act, 2006

Citation: Shittu v Lewis, 2026 ONLTB 39948

Date: May 19, 2026

File Number: LTB-T-070113-25-HR

In the matter of: Basement Unit – 40 Legends Drive
Scarborough, ON M1X1Z7

Between: Zainab Shittu Tenant

and

Tanya Lewis Landlord

HEARING ORDER

Zainab Shittu (the 'Tenant') applied in a T5 application seeking an order determining that Tanya Lewis (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on April 29, 2026. The Tenant attended and declined speaking with tenant duty counsel. The Landlord attended with their legal representative Tigran Sandukhchyan (paralegal).

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.

Preliminary Issue – Tenant's Adjournment Request Denied

2. The Tenant asked to adjourn the hearing for several reasons. She wanted more time to seek legal advice. She advised she had tried to reach legal aid but may want to hire a private legal representative or have more time to prepare mentally. The Tenant also wanted to amend the T5 application to claim more remedies (such as increasing her monetary damages and seeking an administrative fine to be paid by the Landlord).
3. The Tenant advised she had recently received a T2 Order for application LTB-T-079192-23. She had attended an uncontested hearing on October 30, 2025 and she got the Order on April 27, 2026. The Landlord and the Landlord's legal representative advised they did not know about the T2 Order. I orally summarized the T2 Order which awarded the Tenant \$17,321.50 for substantial interference, harassment, illegal entry, and lockout.

4. I note that for the T2 proceeding, the Landlord had a different legal representative, who has not disengaged or removed themselves off the record. The T2 Order was likely only emailed to the Landlord's legal representative on that application. This may explain why the Landlord and their current legal representative had not seen the T2 Order yet. The Landlord was instructed to contact the LTB customer service line and/or their legal representative for the T2 proceeding.
5. The Tenant felt the T2 Order may be reviewed or appealed, so she wanted more time to increase the T5 application and change some of the wording for her remedies claimed. She described how dealing with the Landlord and police had been stressful and exacerbated her mental health issues and anxieties. She wanted to ensure she captured the full extent of her damages arising after the Landlord gave her a bad faith eviction notice.
6. The Landlord and Landlord's legal representative objected to the Tenant's adjournment request. They submitted it would be prejudicial to delay this T5 application and to allow any chance to increase remedies or add new heads of damages such as an administrative fine, at this late stage. They argued these remedies should have been sought from the outset. They also argued the Tenant should have sought legal advice long ago instead of waiting until today to consider hiring a legal representative.
7. Although the Tenant felt the T2 issues and T5 issues were part of the same narrative of complaints involving the Landlord, I note that the legal issues and claims/allegations made in each application are distinct. The T2 Order determined that the Tenant had proven substantial interference, harassment, illegal entry, and lockout, were caused by the Landlord. A request for administrative fine was made in the T2 application but was denied by the T2 hearing Member.
8. I note the Tenant filed the T2 application on October 10, 2023, with the hearing occurring October 30, 2025. This T5 application was filed September 28, 2025.
9. Considering the factors in Rule 21.8 of the LTB's *Rules of Procedure*, I denied the Tenant's adjournment request. There was no reasonable explanation given why the Tenant had not sought legal advice or done more legal research herself since this application was filed 7 months ago. The Tenant was not new to the LTB process as she had filed the T2 application nearly 2 years before this application. The Tenant knew about the heads of damages including administrative fines as she had already claimed for it in the T2 application. Even with the Tenant's disability, mental health, and anxiety issues, there was no reasonable explanation why an amendment had not been requested for the T5 application earlier. I found it would be prejudicial to the Landlord to allow an adjournment.

Legal Test for T5 Application – Bad Faith Not Proven

10. In order to succeed on a T5 application, subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following elements on a balance of probabilities:
 - The Landlord gave the Tenant a 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 or an order made by the LTB based on that notice;
- 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.

11. The Tenant proved the first 2 elements of the legal test listed above.
12. There was no dispute that the Landlord had started requesting the Tenant to move out in the summer of 2023. The Landlord emailed the Tenant on August 2, 2023 advising the lease will expire July 30, 2024 but the tenancy would not continue past September 30, 2023 due to unforeseen circumstances (a family member moving in).
13. There was no dispute that after the summer 2023 communication between the parties, two N12 Notices were given to the Tenant. The Tenant testified that on October 6, 2023, the Landlord put the first N12 Notice under her door. The first N12 indicated the Landlord's spouse's child was the intended occupant. The Tenant testified she got a 2nd N12 under her door but it had a termination date earlier than the first. Both notices were signed by the Landlord October 6, 2023.
14. The Tenant testified she emailed the Landlord the next month after receiving the 2 N12 Notices (she had not uploaded or disclosed the email). She stopped paying rent and moved out due to harassment, discrimination, physical and sexual assault.
15. The Tenant testified about problems that ensued between the parties involving police intervention, assault claims, harassment, the Landlord throwing the Tenant's belonging away, and other allegations. Many of these issues were the subject of the T2 application.
16. Even though the Tenant testified she had no evidence to show she had moved out of the rental unit due to the N12 Notices, I accept that she moved out (at least partially) due to the N12s. This is because the T2 Order determined the Landlord's behaviour, including giving notices of termination, were part of the harassing or substantially interfering behaviour. I accept that even though other problems may have been occurring between the parties, it is reasonable to conclude part of the reason the Tenant chose to move out of the rental unit was because she had been told in 2 N12 Notices (as well as by email and other communications prior) that she must vacate because a family member of the Landlord's was moving in.
17. There was no dispute the Tenant vacated the rental unit on April 18, 2025.
18. The Tenant failed to prove the third part of the legal test for bad faith. The Tenant had no evidence regarding what happened to the rental unit after she vacated.
19. Part 3 of the legal test from subsection 57(1)(a) of the Act requires the applicant to prove no person referred to in the N12 Notice (the intended occupant) occupied the rental unit within a reasonable time after the Tenant vacated.
20. Since the Tenant had no evidence to show the Landlord's spouse's child (or anyone else) did not occupy the rental unit, and since the Tenant admitted she had no idea what happened to the rental unit after she vacated, the third element of the legal test was not proven.

21. The Tenant did not prove all of the required elements for bad faith eviction on a balance of probabilities, so the application must be dismissed.

It is ordered that:

22. The application is dismissed.

May 19, 2026
Date Issued

Michelle Tan
Vice Chair, 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.