



Order under Section 57 Residential Tenancies Act, 2006

Citation: Mehriyari v Antonova, 2026 ONLTB 39909

Date: 2026-05-22

File Number: LTB-T-032398-23

In the matter of: 203, 9090 Yonge
Richmond Hill ON L4C0Z1

Between: Narges Mehriyari Tenants
Alireza Hosseini

And

Irina Antonova Landlord

Narges Mehriyari ('NM') and Alireza Hosseini (the 'Tenants') applied for an order determining that Irina Antonova (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on May 12, 2026. The Landlord, her Legal Representative, Alena Ledovskikh, Witness Olga Antonova (the 'witness'), and translator, Olga Appollonova and the Tenants, Represented by Sassan Emam, attended the hearing.

Determinations:

1. As explained below, the Tenants proved some of the allegations contained in the application on a balance of probabilities. However, I find the Landlord rebutted the presumption of bad faith. Therefore, the Tenants' application is dismissed.
2. By way of background, the tenancy commenced March 16, 2021. The rental unit is a one-bedroom, one-bathroom condominium.
3. Subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenants to prove each of the following on a balance of probabilities:
 - The Landlord gave the Tenants an N12 notice of termination under section 48 of the Act;
 - The Tenants 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 Tenants vacated; and
 - The Landlord served the N12 notice of termination in bad faith.

5. Section 57(5) of the Act states:

(5) For the purposes of an application under clause (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. 2017, c. 13, s. 10.

[Emphasis added]

6. It is not disputed that the Tenants were given an N12 notice of termination indicating that the Landlord required personal possession of the rental unit, and that the Tenants moved out of the rental unit in accordance with the notice. NM testified that the Landlord's Realtor "NS" contacted the Tenants on or about February 20, 2023, indicating that the Landlord wished to move back into the rental unit. The tenancy was to terminate on April 16, 2023. NM says she understood the reason was because her landlord was a senior citizen, wanted to downsize, and wanted to move into the rental unit so she could renovate her existing home to sell it.
7. It is also not argued that the Landlord readvertised the rental unit the day after the Tenants vacated the rental unit. NM submitted an advertisement dated April 17, 2023, showing the rental unit listed by NS was listed for \$2,300.00, which was substantially more than what the Tenants had been paying. Thus, I find that the Tenants have proven the first two parts of the test found under s.57(1) of the Act, and pursuant to s.57(5) of the Act, there is a rebuttable presumption of bad faith because the rental unit was advertised for rent.
8. The Landlord states she had a genuine good faith intention of moving into the rental unit for the sake of her daughter. The Landlord states she did not know why NS told the Tenants the move was related to her age or wanting to downsize, but states NS may have misunderstood. Regardless, the Landlord states she did not give NS instructions to tell the Tenants that she wanted to occupy the rental unit because of her health. However, she testified that she was suffering with high blood pressure during this time and attributes this to concern for her daughter's situation.
9. What the Landlord says is that that her adult daughter and her daughter's two young children ('grandchildren') were living in a perilous situation. Her son-in-law had a serious substance abuse problem and her daughter decided she needed to leave for her safety. The plan was that her daughter and grandchildren would move into the Landlord's home, and the Landlord would move into the rental property.

11. However, the Landlord says that on about March 17, 2023, she learned that her daughter had changed her mind about moving out of her marital home. Her son-in-law's health had deteriorated significantly, and her daughter just felt as though she could not leave him in his condition. So, the Landlord decided not to move in, because it was no longer necessary for her to do so.
12. The Tenants found another rental unit and signed a new lease on March 18, 2023. On or about March 20, 2023, the Landlord and NS attended the rental unit. During that inspection, the Landlord, with some interpretation assistance from NS, offered to allow the Tenants to remain in the rental unit because she no longer needed the rental unit. However, the Landlord was unaware that the Tenants had already signed a new lease.
13. The Landlord's witness – her daughter - testified. She confirmed that she had discussed with her mother moving out of her marital home into her mother's home. Her mother wanted to help her. However, she indicated that her former spouse had taken some positive steps to get help with his condition, so she changed her mind about leaving. She says she told her mom, the Landlord, that she was thinking she had changed her mind about leaving her husband in about the "first few weeks of March" which she then clarified that she told her mom the first week of March with a final decision a few "days" to one "week or so" later.

Analysis

14. Section 202 of the Act states:

202 (1) In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

- (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and
- (b) may have regard to the pattern of activities relating to the residential complex or the rental unit.

14. In my view, the Landlord rebutted the presumption of bad faith. I find the Landlord's intention changed due to unforeseen family circumstances, rather than being absent at the outset. When I consider the outward forms of the transaction, that is the rental unit being readvertised at a higher rate immediately after the Tenants vacated, and consider the pattern of activities, I find the Landlord's explanation to be credible. The pattern of activity before me was that the Landlord, worried about her daughter and her grandchildren, wanted to help. She chose to give her home up for them. This was corroborated by her daughter's testimony.
15. Although the case of *Elkins v. Van Wissen*, 2023 ONCA 789 ('*Elkins*') dealt with the analysis of a bad faith eviction following the termination of a tenancy pursuant to s.57 of the Act where the purchaser wished to occupy the rental unit, I find it useful to consider this case in applications where the good faith intention of a landlord to occupy the rental unit is called into question. The Court of Appeal provides guidance in par. 45:

[45] It could be argued that s. 57(1)(b) implicitly limits Board scrutiny to the Vendor Landlord's knowledge when it gives the s. 49 termination notice. However, such an interpretation runs afoul of s. 202(1) of the RTA. Under s. 202(1), the Board is 2023 ONCA 789 (CanLII) required, when making findings on an application, to ascertain the "real substance of all transactions and activities relating to...a rental unit and the good faith of the participants". **Limiting the assessment of a Vendor Landlord's bad faith to that single point in time when the s. 49 termination notice is given precludes the Board from both ascertaining the true substance of the transaction between the Vendor Landlord and the purchaser and conducting a fair assessment of their good faith.**

16. I have considered that the Landlord attempted to allow the Tenants to stay, but it was too late as the Tenants had already signed a new lease. This suggests that the Landlord was not asking the Tenants to vacate simply to increase the rent suggesting the real reason was consistent with her stated intention.
17. I have also considered that the Landlord raised the rent significantly when the rental unit was readvertised. A rent increase alone does not equate to bad faith where other credible changes in circumstances exist. If the purpose of having the Tenants vacate was to raise the rent, it does not accord that the Landlord told the Tenants they could stay in the rental unit. The Landlord was not aware the Tenants had signed another lease, so it cannot be said that the offer was made to "mitigate" her conduct in having given the Tenants the N12 in the first place. In my view, offering the Tenants the opportunity to stay is more consistent with the Landlord learning her daughter no longer planned to leave.
18. When I apply *Elkins* to the matter before me, I find that the Landlord genuinely intended to move into the rental unit at the time the N12 was served. She wanted to help her daughter by providing a safe place for her daughter and grandchildren to live. However, that intention changed when she learned during the first week of March that her daughter no longer required the residence. The Landlord's evidence was that she learned of the change to the daughter's circumstances on March 17, 2023. I note this is inconsistent with the witness' evidence that she told her mother the first week of March 2023.
19. If I accept the Landlord's testimony, then she told the Tenants just three days later of the change in circumstances. If I accept the witness's evidence, then the Landlord knew for about 10-12 days that her daughter would not be moving in. However, even if I accept the Landlord's witness' testimony, and I find that the Landlord knew, or ought to have known by the end of the first week of March that she no longer required the rental unit, I am not persuaded that this necessarily equates to bad faith conduct. It may well be imperfect conduct, and the Landlord might have taken steps to let the Tenants know sooner. However, imperfect conduct is not the same as bad faith. The Landlord may have believed that telling the Tenants the next time she saw them, particularly since she relied on NS for assistance with translation, was sufficient particularly since the Landlord had no knowledge that the Tenants already signed a lease elsewhere.
20. Further, I do not find that the delay of up to about 10 days' to informing the Tenants that the Landlord no longer required the rental unit amounts to bad faith in giving the Tenants' the N12 notice in the first place. The witness stated that the final decision was not made until a few "days" later or even as much as a "week" later. This indicates that the situation

was fluid and that the witness may not have conveyed a final decision to her mother until several days later, and again, the Landlord did not know the Tenants had re-rented a new unit.

21. I accept the Landlord's evidence that she did not instruct NS to advise the Tenants that she needed the rental unit for health reasons or to downsize. However, again I do not find that this is necessarily indicative of bad faith as without NS's having testified, we do not know what she understood, and there could be other explanations for why NS told the Tenants this. Thus, there was insufficient evidence to attribute this statement to the Landlord versus NS.

22. In the case of *Caputo v Newberg* [2009] O.J. No. 2659 (Ont. Div. Ct.), the Divisional Court instructs that I am to weigh all of the circumstances in making my decision, in par. 13:

[13] The Board Member is entitled to weigh the overall circumstances relevant to the situation of both the landlord and the tenant to provide what the tribunal perceives to be a fair result.

23. In my view, when I weigh all of the overall relevant circumstances, I find that the Landlord has rebutted the presumption of bad faith. As such, the Tenants' application cannot be successful.

24. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the submitted evidence and oral testimony when making my determinations.

It is ordered that:

1. The Tenants' application is dismissed.

May 22, 2026
Date Issued

Jane Dean
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.