



Order under Section 31 Residential Tenancies Act, 2006

Citation: Elewa v James, 2026 ONLTB
35059 **Date:** 2026-05-22
File Number: LTB-T-091928-25

In the matter of: 160 Rendell Blvd.
Hamilton ON L8T3P8

Between: Walid Elewa
Ghada Ghaleb Tenants

And

Babu James Landlord

Walid Elewa and Ghada Ghaleb (the 'Tenants') applied for an order determining that Babu James (the 'Landlord'):

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on April 28, 2026. The Landlord, Represented by Francisco Gomez, and the first-named Tenant, Represented by Maryna Gorge, and Noreen Mohammed, who aided the Tenant with translation services, attended the hearing.

Determinations:

Preliminary Issues:

Post-Hearing Submissions (Amending T5 Application)

1. Post-hearing submissions were requested with regard to amending the Tenants' T5 application to that of a T2 application about Tenants' rights.
2. The Tenant provided post-hearing submissions on May 6, 2026. The Landlord provided submissions on May 11, 2026.
3. Although I do not necessarily agree with the Landlord Representative's submissions, I am no longer of the view that an amendment to the Tenants' application is necessary as I find my decision can be made with the facts and remedies as contained in the T5. Therefore,

the determinations of this application are made pursuant to the Tenants' T5 application, and I have not amended the Tenants' application.

Tenants' T5 Application

4. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must pay to the Tenants \$1,270.66.
5. By way of background, the rental unit was a single-family home with two rental units. The Tenants occupied the upper floors of the rental unit. The tenancy was about seven years in length.
6. Subsection 57(1)(c) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following on a balance of probabilities:
 1. The Landlord gave the Tenant an N12 notice of termination under section 50 of the Act;
 2. The Tenant vacated the rental unit as a result of the N13 notice of termination;
 3. The Landlord did not demolish, convert, or repair, or renovate the rental unit within a specific period of time after the Tenant vacated the rental unit; and
 4. The Landlord served the N13 notice of termination in bad faith.
7. It is not contested that the Landlord gave the Tenants an N13 notice of termination ('N13') on or about July 26, 2024, with a termination date of November 30, 2024. The N13 states that the Landlord planned to "convert to legal duplex home" stating "secure city permit and follow all city codes to convert the single family dwelling into two legal unit home." The N13 indicates that the Landlord will obtain the necessary building permits to convert the premises. Therefore, the Tenants have proven the first part of the test as found in s.57(1)(c).
8. The Tenant submits that on or about July 23, 2024, the Landlord attended the rental unit to fix the stairs at the request of the Tenants. When the Landlord attended that day, he brought up that the rental unit needed significant repairs and that it would be difficult to have the Tenants remain in the rental unit during the renovations. The Tenant says the Landlord told him that they could come back to the rental property, but that the rent would be increased.
9. It is not contested that the Landlord did not file an L2 application with the Board based on the N13 notice which was given to the Tenants.
10. Initially after receiving the N13, the Tenants searched for another rental property. However, they were unable to find anything suitable. So, after about four weeks of searching, the Tenants decided to purchase a home instead. The Tenants purchased a home around the end of December 2025. The property closed on or about February 28, 2025. The Tenants moved out of the rental unit on April 14, 2025.
11. The Tenants new home is a short distance from the rental unit. The Tenant testified that he did not see the repairs he expected would have taken place and came to learn that new tenants were occupying the former rental unit, a fact not disputed by the Landlord. He feels the tenancy was terminated in bad faith because the Landlord did not affect the

repairs as stated on the N13 notice. The Tenants submit that but for the Landlord's N13 notice, they would have continued to live in the rental unit indefinitely and although they did purchase a home, it was an arduous process to do so and pushed up their timelines.

12. The Landlord argues that the Tenants did not move out in accordance with the N13 notice, and that there was a material change in circumstances such that the intended renovation did not take place.
13. The Landlord says that the Tenants, who he had a good relationship with, had told him numerous times that they one day planned to purchase a home. In fact, when the Landlord gave the Tenants the N13 notice, the Tenants discussed making an offer to purchase the rental unit from the Landlord.
14. Further, the Landlord submits that the L2 application was never filed, and the notice would have been void, so it cannot be said that the Tenants left because of being given the N13 notice. The Tenant admits he did not seek legal advice at this time.
15. The Landlord states he was not aware that the Tenants had purchased a home until December or January 2025. Regardless, the termination date had come and gone, and the Landlord suggests that he did not apply any pressure to the Tenants. Submitted into evidence was text messages between the parties. On October 21, 2024, the Landlord asks: "how is the home search going on?". The next message, dated March 27, 2025, is asking if the Tenant got his keys. The Board assumes this is referencing the keys to the home the Tenants purchased.
16. The Tenants submitted an N9 notice on March 29, 2025, with a termination date of April 14, 2025.
17. The Landlord says he had planned to do extensive renovations to the rental property to change the rental property into a legal semi-detached home. The basement is already a legal unit and would remain intact. He is an experienced Landlord and had done similar renovations before and had a cost estimate of \$60,000.00 for the necessary renovations (the 'full-scale renovation'). He disputes that he told the Tenants that they could not come back, rather he says they could come back, he was just uncertain of when that would be.
18. The Landlord argues there was a material change in circumstances such that the intended renovation did not take place. Instead, small updates were done at a significantly lower cost, totalling \$6,500.00 (the 'small-scale renovation') instead of the original \$50-\$60K budget.
19. The Landlord advises that in January, it became apparent he would not be able to afford the original renovation. He had two properties which were for sale and remained on the market without offers. In addition, the Landlord had several files involving other tenants before the LTB for non-payment of rent.
20. In my view, the Tenants have proven, on a balance of probabilities, that they vacated the rental unit because of having been given the N13 notice. The Tenants received the N13 notice and gave evidence they were aware the rental unit was in a state of disrepair, so it made sense that the unit would require extensive remediation. The Tenants did not leave by the termination date, but they purchased a home at the end of December.

21. The Landlord testified that although he became aware the Tenants purchased a home, he did not advise them that he would not be completing the large-scale renovation. Additionally, he stated that around the end of January or early February, it became evident that he could not afford to complete the large-scale renovation project. Again, he did not advise the Tenants at any point that the work would not be done, he says, because by this time he knew the Tenants had purchased a home.
22. Further, the Landlord seeks to rely on the fact that the L2 application had not been filed pursuant to giving the N13 notice, so the N13 notice was void. Thus, the Tenants should not have terminated the tenancy because they should have realized the notice was no longer in effect. However, the Landlord did not advise the Tenants that he had not filed the application with the LTB. It is unclear to me then how the Tenants were expected to know that an application was not filed with the Board and that the Landlord was rescinding the notice of termination.
23. The Landlord also argues his financial situation changed which was a material change in circumstances which was unforeseen and resulted in the renovation work not being conducted.

Analysis

24. For the following reasons, I am unable to find that the Landlord gave the N13 notice in good faith.
25. I found the Landlord's evidence overall lacked reliability. Specifically, the Landlord first stated in his in-chief evidence, that he realized he no longer had the money to do the large-scale renovation at the end of 2024 or beginning of 2025, and certainly before April 7, 2025. However, in cross-examination, the Landlord stated he was aware of financial burdens in as early as mid-2024. Even the Landlord's own documentary evidence suggests that the Landlord was facing these financial challenges in "April" repeatedly referring to this period (pg. 24, Doc-7809604), where his oral testimony suggested the financial problems began anywhere from the end of December 2024 through April 2025.
26. The Landlord let the N13 expire without filing an L2 application with the LTB and instead abandoned the N13. No evidence was adduced that the Landlord sought the permits necessary to undertake the large-scale renovation. The Landlord's in-chief testimony was that he realized in late December or early 2025 that he would not be doing the large-scale renovation.
27. However, the Landlord also testified that he knew the N13 would have expired if he did not file an L2 application with the LTB within 30 days. That means if the Landlord had intended to follow through with the L2 application with the LTB, it would have needed to be filed on or before December 30, 2025. Despite this, the Landlord still did not inform the Tenants that he abandoned the N13, nor did he advise the Tenants that he would no longer be conducting the large-scale renovation.
28. The Landlord's evidence was that he did not find out that the Tenants had purchased a house until January 30, 2025. But as I have found above, the Landlord knew the N13 was void as of December 30, 2025.

29. Although I agree there is a significant delay between the Tenants having received the N13 (in July 2024 with a termination date of November 30, 2024), and the date the Tenants ultimately vacated the rental unit (April 2025), as the Landlord did not advise them that he had not pursued the N13 with the LTB, I am still persuaded that the Tenants vacated the rental unit in accordance with the N13 notice. They purchased their house in December 2025 and were aware their rental unit needed significant repairs. This would suggest that they believed the Landlord was intending to do the large-scale renovation and the Landlord did nothing to disabuse them of this notion.
30. 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 renovate a 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.**

[Emphasis added]

31. When I consider and apply the Court of Appeal's decision of *Elkins* to the facts at hand, I can find no satisfactory reason why the Landlord, despite his clear intention to abandon the N13 application, failed to advise the Tenants of this. His testimony was that he knew the Tenants bought a house. However, the Landlord clearly stated that he found out they purchased a home on January 30, 2026, by text message. The Landlord could have told the Tenants at any time that he was not advancing the N13 application, but he did not do so.
32. The Landlord also argued a material change in circumstances, that being his financial situation had changed, which necessitated moving forward with the small-scale renovation rather than the original large-scale plan.
33. However, I am not persuaded that the change in circumstances was unforeseeable, at least in-part. Specifically, the Landlord gave evidence about two L1 applications for non-payment of rent which had been before the Board during the period. However, only one of the two applications included arrears that began in 2025, when the Landlord states he became aware he could no longer afford the renovations. The other L1 application claimed arrears which predates the N13 notice, with arrears accumulating from November 2023.

34. In addition, the Landlord also provided evidence about two properties he owned which lagged on the market during this period. One was listed in March 2025 but is not sold ('property 1'). The second sold in July 2025 ('property 2'). However, no information was led about when property 2 was listed for sale, so I cannot assess whether property 2 did in fact lag on the market. As for property 1, no evidence was led to demonstrate how the lack of this sale would have affected the Landlord's good-faith intention to undertake the large-scale renovation in July 2024 when the N13 was given to the Tenants.
35. Perhaps more importantly, the Landlord led no additional corroboratory evidence that the Board might expect in these circumstances, such as financial records, tax documents, bank statements, etc., to substantiate his claim of financial burdens. I do note that the Landlord led evidence that he had re-rented the rental unit for less money than he had rented to the Tenants, suffering a loss. However, this does not reflect his entire financial picture.
36. The Landlord's own evidence was that he had done several of the types of renovation projects and was "familiar" with the cost and time it would take to do this work, and he was aware as of August 2024 of the cost associated with doing the work. In my view, if the Landlord was experienced doing these types of renovations, the Landlord knew, or ought to have known whether it was financially feasible to undertake such a large-scale project.
37. When I consider the Court of Appeal's guidance in *Elkins*, the good faith analysis cannot be limited only to the time the Landlord gave the N13 notice but also must include his behaviour following its issuance. The Landlord testified he never told the Tenants he would not be conducting the large-scale renovation despite having misgivings about his financial situation in as early as mid-2024.
38. 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.

39. Further, when I consider s.202(1) to the Act and the pattern of behaviour, I find that the eviction is more consistent with what is colloquially called a "renoviction." I am not persuaded that the Landlord genuinely intended to conduct the large-scale renovation. He did not file an application with the Board or seek the requisite permits. Further, as early as December 30, 2024, the Landlord's intention changed, but he failed to advise his Tenants of this and offered no reasonable explanation as to why he did not, given he also testified he was unaware they had purchased a house at that time.

40. Although the Tenant explained he was told the rent would be increased if he chose to return to the rental property, whereas the Landlord denies having said this, I do not find it necessary to make a determination about this given my earlier findings in paragraph 27.
41. As such, I find that the Tenants met their onus, on a balance of probabilities, that the Landlord served the N13 notice in bad faith.

Remedies

42. By way of remedies, the Tenants seek the following:

- \$4,281.00 for a 25% rent abatement for a 12-month period;
- \$17,124.00 for general compensation;
- \$26,244.00 for a rent differential,
- \$1,270.66 for the cost of moving; and,
- a Board administrative fine.

43. Remedies for a bad faith termination pursuant to s.57 of the Act, are found at s.57(3):

(3) The orders referred to in subsection (1) are the following:

1. 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.

1.1 An order that the landlord pay a specified sum to the former tenant as general compensation in an amount not exceeding the equivalent of 12 months of the last rent charged to the former tenant. An order under this paragraph may be made regardless of whether the former tenant has incurred any actual expenses or whether an order is made under paragraph 2.

1.2 An order that the landlord pay a specified sum to the former tenant for reasonable out-of-pocket moving, storage and other like expenses that the former tenant has incurred or will incur.

2. An order for an **abatement of rent**.

3. An order that the landlord pay to the Board an administrative fine not exceeding the greater of \$10,000 and the monetary jurisdiction of the Small Claims Court.

4. Any other order that the Board considers appropriate.

[Emphasis added]

Rent Abatement / General Compensation

44. The Tenants' claim for a rent abatement is predicated largely on allegations of disrepair in the rental unit, rather than the inconvenience suffered because of the Landlord's breach. In addition, the Landlord submits that the Tenants led no evidence to support their claim for rent abatement. In addition, the Tenants were able to remain in the rental unit, with

little pressure from the Landlord, and were able to remain in their home until their house purchase closed.

45. The Tenant did refer to the difficulty securing the funds necessary to get a down-payment together. Although it was not entirely clear to me based on the Tenant's testimony, it seems some of his funds were tied up in the United States. However, I did not hear about the impact on the Tenants except to say they were forced to purchase a house, rather than continue renting, which was not their plan.
46. I do not find that the Tenants led sufficient evidence to warrant a rent abatement. I agree with the Landlord's submissions that the pleadings refer in large part to repairs which were not done. However, I find those would have been properly plead on a T6 application, rather than a T5 application. Other than the challenges of trying to free up their funds to make the downpayment, the Tenant did not leave any evidence about the impact on them, other than to have pushed up their future plans to buy a home.
47. For the same reasons, I also find that the Tenants led insufficient evidence to warrant general compensation. General compensation is intended to compensate for intangible losses such as pain and suffering. The Tenants did not lead evidence to suggest that they had suffered with losses often associated with bad faith evictions, such as a loss of work, excessive commutes, loss of family relationships, etc. No evidence of the losses suffered by the Tenants was led sufficient to demonstrate losses such as pain and suffering.
48. The *Residential Tenancies Act* is intended to be remedial, not punitive. In other words, the purpose of the Act is to provide protection for Tenants against unlawful evictions and rent increases, and to balance the rights and responsibilities of residential landlords and tenants. And although I agree that the Landlord did unlawfully terminate the tenancy, not every bad faith eviction results in an order for general compensation. If it did, the Act would say so. No order shall issue.

Rent Differential

49. The Tenants seek rent differential; that is, the difference in what they were paying to the Landlord for rent, and what they pay now. The issue here is that the Tenants are not paying rent. Rather, they are paying a mortgage payment.
50. Section 57(3)(1) of the Act specifically indicates that the Board can order the difference in "rent." A mortgage payment is not rent.
51. Mortgage payments are not defined in the Act. However, the case of *Rizzo Shoes v. Rizzo Shoes Ltd.*, provides guidance about statutory interpretation. On behalf of the Court, Iacobucci J. noted:

"[21] Although much has been written about the interpretation of legislation (see, e.g., Ruth Sullivan, *Statutory Interpretation* (1997); Ruth Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994) (hereinafter "*Construction of Statutes*"); Pierre-André Côté, *The Interpretation of Legislation in Canada*

(2nd ed. 1991)), Elmer Driedger in *Construction of Statutes* (2nd ed. 1983) best encapsulates the approach upon which I prefer to rely. He recognizes that statutory cannot be founded on the wording of the legislation alone. At p. 87 he states:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, and the object of the Act, and the intention of Parliament.”

52. When I consider the plain and ordinary meaning of the word rent, which is defined in the Act, I find it to be any amount paid on behalf of a tenant to a landlord. However, there is no landlord/tenant relationship in a mortgage; rather there is a mortgagor and a mortgagee. Thus, I am of the view that mortgage payments can be compensable under s.57(3) of the Act.

Moving Costs

53. The Tenants seek moving and storage costs of \$1,270.66 for moving costs.
54. The Landlord disputes this because the Tenant failed to lead any evidence during their in-chief about the moving costs, although it was referenced in their closing submissions. However, the Landlord also concedes that if a finding of bad faith was made, the moving costs were reasonable.
55. The Tenants' application clearly seeks moving costs. Thus, I do not find it is an error in law, as stated in *Beaugé v. Metcap Living Management Inc.*, 2012 ONSC 1160, which found the Board cannot assess a monetary award where it was not stated within a claim.
56. Given that the Landlord concedes that if a bad faith finding was made, the costs of moving were reasonable, I am of the view that this is an appropriate award. I find the moving costs to be reasonable, and that but for the Landlord's breach, the Tenants would not have incurred this expense. An order shall issue.

Administrative Fine

57. The Tenants also seek a Board administrative fine. However, no submissions were made with regard to the fine during the hearing. As such, I am not of the view a Board fine is appropriate in the circumstances.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$1,318.866. This amount represents:

- \$1,270.66 for the costs of moving, storage or other like expenses that the Tenant has incurred, and,
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by June 2, 2026.
 3. If the Landlord does not pay the Tenant the full amount owing by June 2, 2026, the Landlord will owe interest. This will be simple interest calculated from June 3, 2026 at 4.00% annually on the balance outstanding.

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.