



Order under Section 57 Residential Tenancies Act, 2006

Citation: Kemp-Jackson v Martinez Cameron, 2026 ONLTB 40350

Date: 2026-05-22

File Number: LTB-T-002890-26

In the matter of: 20 Lloyd Manor Road
Etobicoke ON M9B5H6

Between: Carlisle Fitzroy Kemp-Jackson Tenant

And

Cristina Martinez Cameron Landlord

Carlisle Fitzroy Kemp-Jackson (the 'Tenant') applied for an order determining that Cristina Martinez Cameron (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on April 29, 2026.

The Tenant, the Tenant's Agent, Samantha Rose Kemp-Jackson, the Landlord's Legal Representative, Maria Sturino and the Landlord attended the hearing. Ms. Kemp-Jackson is the Tenant's daughter.

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 the amount of \$5,048.00 by June 2, 2026.
2. The residential unit is a single detached house located at 20 Lloyd Manor Road, Etobicoke, Ontario.
3. The Tenant commenced his tenancy at the rental unit in 2005 and vacated the rental unit on May 31, 2025.
4. I have carefully reviewed the documentary evidence before me, the testimony of the parties and I have considered the parties' submissions. I refer to the material facts and relevant evidence below.

Preliminary Issue

5. The Landlord's Legal Representative submitted that due to the fact that the Landlord did not serve an N12 notice to the Tenant that this application should be dismissed.
6. There is no dispute that an N12 notice was not given to the Tenants. The issue before me is whether the communication between the parties amounted to a notice of termination under section 48(1) of the *Residential Tenancies Act*, 2006 (hereinafter referred to as the "Act").
7. Subsection 37(1) of the Act states "a tenancy may be terminated only in accordance with this Act which means that a tenancy can only be terminated by proper notice, by way of an agreement between the Tenant and the Landlord, or by way of an order issued by the Board.
8. Section 43(1) of the Act states "Where this Act permits a landlord or tenant to give a notice of termination, a proper notice shall be in a form approved by the Board and shall, a) identify the rental unit for which the notice is given; b) state the date on which the tenancy is to terminate; and c) be signed by the person giving the notice or the person's agent."
9. Section 212 of the Act provides that substantial compliance with the Act respecting the contents of forms, notices or documents is sufficient. Therefore, in some circumstances it may not be necessary for a landlord to use a Board approved version of the forms in order for a notice to be valid so long as the specific information required on the notice, such as the address, length of notice period, termination date, etc. substantially complies with the statutory requirements.
10. The Tenant's Agent submitted that the email communication from the Tenant to the Tenant's family immediately after signing the N11 agreement with the Landlord substantially complied with the notice required under section 48(1) of the Act. This email dated October 30, 2024 indicated that the Tenant was served a notice from the Landlord and had to move out in accordance with a timeline because the Landlord was moving into the rental unit.
11. The relevant email stated, "Hi All, I hope that you are having a good day. I had a visit today from my landlady, Christine, during which she gave me six months' notice. She is planning to downscale and live here. I told her that I would try to leave before the end of April, when the notice expires. I also told her that I would clear out the basement before I leave...Much Love, Dad"
12. I have reviewed the email message from the Tenant and I reserved my decision on whether the Tenant's email and/or the communications between the parties amounts to a notice under section 48(1) of the Act until I hear the evidence.

Evidence of Carlisle Fitzroy Kemp-Jackson (CKJ)

13. CKJ testified that his wife died in August of 2024 and that they had been married for over 65 years. He stated that he and his wife had resided in the rental unit for over 20 years.

14. The Tenant stated that the Landlord came over to the house on October 30, 2024 and she told him that she would be downsizing and that she was going to move into the rental house. He stated that she had a very big house and he believed that she intended to move into the house. He confirmed that she had been a great landlady and that he had no reason to doubt what she said.
15. CKJ stated that he had no plan to leave the house because he loved it there and had lived there for over 20 years. He stated that he left the property because he was given notice from the Landlord that she would be downsizing and moving into the rental house.
16. CKJ stated that he signed the N11 with the Landlord because this was her house and she had every right to move back into the house if that's what she required.
17. The Tenant is seeking a rent differential of \$17,988.00, moving expenses of \$2,280.00 and compensation of \$5,000.00.
18. In cross-examination, the Tenant confirmed that the only reason he vacated the house was because the Landlord wanted to move into the house.
19. In cross-examination, the Tenant confirmed that the date of the N11 agreement actually provided him with 8 months' time to relocate instead of the 6 months' time referenced earlier.

Evidence of Christina Martinez Cameron (CC)

20. CC testified that she became worried about the Tenant's health in the summer of 2024. She stated that the Tenant wanted a friend to move into the basement and he wanted a basement bathroom to be added. She stated that this caused her to be concerned for the Tenant's health.
21. CC stated that she visited the Tenant on October 30, 2024 and that they talked about a lot of things. She stated that the Tenant agreed that he would move out of the house and that they both agreed to terminate the tenancy on June 30, 2025. The Landlord stated that at that time, she went out to her car to retrieve the N11 agreement and brought it into the rental house for the Tenant to sign.
22. CC stated that she never asked the Tenant to move out so that she could sell the house or move into it herself. She reiterated that she was concerned with the Tenant's deteriorating health and during their discussions on that day, the Tenant decided to vacate the unit.
23. The Landlord stated that after the Tenant vacated the house at the end of May of 2025, she decided to complete some renovations and then re-rented the house.
24. In cross-examination, the Landlord was asked if she was aware that the Tenant was grieving the death of his wife when they met on October 30, 2024. She confirmed that she was aware that the Tenant's wife passed away recently.

Analysis

25. Based on the evidence provided by the parties, my review of the Tenant's email to his family on October 30, 2024 and my review of pertinent case law, I am satisfied that the Landlord's actions constituted a notice of termination under section 48(1) of the Act.
26. The Tenant is 89 years old and struggled with remembering a couple of minor points which is of course understandable. He did not remember that he received an email in September of 2024 from the Landlord who said that she may be selling the house due to financial reasons. He also forgot about asking the Landlord to install a bathroom in the basement so that a friend could potentially move in. However, the Tenant's memory was consistent in that the only reason that he vacated the rental house was due to the Landlord downsizing and moving into the house herself. He stated that the landlady was very kind and provided him with 6 months' notice so that he could find another place. He also stated that he had no reason to doubt the Landlord's request to have the house back as she told him that she needed it for herself and she was the owner of the house.
27. The Tenant's email to his children dated October 30, 2024 sets out exactly what happened at the meeting between the Landlord and the Tenant. The Tenant stated that the Landlord visited him on October 30, 2024 and gave him 6 months' notice because she is downsizing and must move into the house herself. The N11 agreement was signed by both parties on October 30, 2024. This dated email is an independent corroboration of the parties' meeting which is not dependent on the Tenant's memory.
28. The Tenant testified repeatedly that he only vacated the house on May 31, 2025 because the Landlord wanted to move into the house herself. He made it clear that he loved the house after living there with his wife for 20 years and that he had no intention to leave his home.
29. The Landlord's evidence confirmed for me that her intention was to convince the Tenant to vacate the home. The Landlord stated that she had been worried about the Tenant's health but provided only one reason for her concern which included the Tenant's request to renovate the basement to allow another person to reside there. She provided no email correspondence to support her concerns for the Tenant's health and she provided no other troubling incidents to support her position.
30. The Landlord stated that she attended to visit the Tenant on October 30, 2024 and that when the Tenant stated that he would vacate the house, she went to her car to retrieve an N11 agreement. That N11 agreement had been pre-printed with the names of the parties, the address of the rental unit, the termination date and the parties' names printed under the signatory titles for each party. The Landlord had attended the rental unit with a prepared N11 agreement for this specific unit with the termination date that she chose. The Landlord's intention was clear in that she required the long-time Tenant to vacate the house for her purposes and the Tenant vacated the house on May 31, 2025.
31. I also reviewed the case law that the Landlord's Legal Representative referred me to including two LTB cases, *Khalesi and Hajiseyed*, 2020 and *Berry and Tang*, 2024. The first case is distinguishable from this case due to the simple fact that no communications

were put forward as a notice under section 48(1) and no N11 agreement to terminate was signed by the parties. The second case can be distinguished because the Landlord specifically advised the Tenant that the tenancy would continue on a month-to-month basis after the termination date of the lease. Further a letter was given to the Tenant, along with the N11, advising the Tenant to seek independent legal advice prior to signing an N11 agreement. Further, I am not bound by other Board cases decided by other Members as I am with appellate case law.

32. Subsection 57(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') requires the Tenant to prove each of the following on a balance of probabilities:

- The Landlord gave the Tenant an 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;
- 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.

33. There is no question that the first, second and third of these criteria have been met as the Landlord communicated to the Tenant that she wanted her rental unit back for herself, the Tenant vacated the rental unit as a result of these communications and no person referred to in subsection 48(1) of the Act occupied the rental unit within a reasonable time after the Tenant vacated. The dispute is whether or not the Landlord's actions were made in bad faith.

34. For the first test of "bad faith" under subsection 57(5) of the Act it is presumed, unless the contrary is proven on a balance of probabilities, that the Landlord gave a "bad faith" notice, if at any time during the period from the date of the notice to one year after the Tenant vacated the unit, that the Landlord:

1. advertises the rental unit for rent;
2. enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;
3. advertises the rental unit, or the building that contains the rental unit, for sale;
4. demolishes the rental unit or the building containing the rental unit; or
5. takes any step to convert the rental unit, or the building containing the rental unit, to use for a purpose other than residential premises.

35. Not only did the Landlord fail to move into the residential unit, but the Landlord advertised the rental unit and rented it out to different tenants after renovating the house. The Tenant vacated the house on May 31, 2025 and the house was rented out at a significantly higher rent in September of 2025.

36. The Landlord was represented by a Legal Representative and I am not satisfied that the Landlord has shifted the presumptive bad faith set out in subsection 57(5) of the Act.

37. In Elkins v. Van Wissen, 2023 ONCA 789, the Court of Appeal found that in light of the tenant protection focus of the Act, the LTB must consider all the evidence before it that is relevant to the landlord's bad faith. It found that a decision maker must consider the party's conduct prior to, at the time of, and subsequent to the giving of the N12.
38. The Landlord's conduct prior to the October 30, 2024 meeting between the parties revealed that the Landlord required the rental unit to be vacant for her purposes and that she planned for it. This was confirmed by the Tenant's email, the Tenant's oral evidence and the Landlord's oral evidence. The Landlord had a prepared N11 agreement in her car prior to meeting with the Tenant about her concern about his health.
39. Although the Landlord's stated intention to the Tenant was for her to downsize and move into the unit herself, her intention appeared to be renovations and an increase in rent. I am satisfied that the Landlord's attempt to use an N11 agreement to terminate the tenancy, rather than serve an N12 notice, was an attempt to circumvent the Act and to avoid this type of application.
40. Based on the Landlord's actions mentioned above, I am satisfied that her actions were made in bad faith. Having made this finding, I find that the Tenant is successful with his T5 application.

Remedies

41. Although the Tenant requested a substantial rent differential, the Tenant provided no new lease to corroborate the increased rent. As such, I will not be awarding a rent differential.
42. Although the Tenant requested moving expenses of \$2,280.00, the Tenant provided no receipts for moving expenses. As such, I will not be awarding moving expenses.
43. The Tenant's wife passed away on August 14, 2024 and 2.5 months later, the Tenant would have been grieving the death of his spouse. The Landlord chose that date, October 30, 2024 to meet with the Tenant and advise him that she required the house for her own occupancy because she was downsizing. The Tenant stated that he had been married to his wife for 65 years, he was deeply saddened by her death and he admitted that he was not doing well emotionally. I can only imagine the devastation of losing a life partner and having to move out of a home that you've lived in together for over 20 years. I am satisfied based on the credible testimony of the Tenant that this termination caused him significant emotional distress, serious disruption and a great inconvenience by the Landlord's bad faith actions. As such, I assess this claim at \$5,000.00 and shall order same.
44. The Tenant was successful with his application and is entitled to the application fee.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$5,048.00. This amount represents:
 - \$5,000.00 for general compensation 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

Carrie Bertrand
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.