



Order under Section 57 Residential Tenancies Act, 2006

Citation: Im v Kim, 2026 ONLTB 41608

Date: 2026-05-28

File Number: LTB-T-082067-25

In the matter of: 415 CARRVILLE RD
RICHMOND HILL ON L4C6E5

Between: Jiho Im Tenant

And

Sunghee Kim Landlord

Jiho Im (the 'Tenant') applied for an order determining that Sunghee Kim (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on May 12, 2026.

1. The Tenant, the Tenant's Representative Weslie Phang, the Tenant's witness Sungho Im, the Landlord assisted by a translator, the Landlord's Representative Grace Yun and the Landlord's witness Minwoo Han attended the hearing.

Determinations:

2. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
3. The rental unit is the basement unit in a single-family dwelling. The Tenant resided in the unit with his parents.
4. 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.

5. It was uncontested that the Landlords served the Tenant with a notice of termination under section 48 of the Act and that the Tenant moved out because she received this notice. The Tenant moved out September 30, 2024.
6. Regarding the third criteria of the test outlined above, the Tenant testified that he found a listing for the unit on July 18, 2025. A copy of the ad was submitted into evidence, and it stated "renting a basement room near Richmond Hill Younge and 16th. Good conditions and transportations, shopping and Korean grocery are near here, so it's easy to go around. It is \$800 per month and no additional charges."
7. The remaining issues are if the Landlord's son moved into the unit within a reasonable amount of time and whether the Landlord served the N12 notice of termination in bad faith.
8. In terms of whether the N12 notice was served in "bad faith", section 57(5) and 57(6) of the Act creates a presumption of bad faith if the Landlord advertises the unit for rent or sale within one year of the Tenant vacating the rental unit. Since the rental unit was first advertised for rent on July 8, 2024, the statutory presumption of bad faith applies in this case. The burden thus shifts to the Landlord to establish that she did not serve the N12 notice of termination in bad faith.
9. The Tenant testified that on August 5, 2025, he seen someone entered the side door and called the Landlord from a different number and confirmed the unit was listed for rent and available immediately.
10. The tenant testified that he lives with his parents and his mother it has been diagnosed with dementia, requiring daily care provided by a PSW.
11. The tenant testified that it was hard to find another unit suitable for him and his parents and due to moving they lost the services of a PSW who spoke Korean. He further testified that his brother gave up an apartment in which he paid very low rent to join the family to buy a house as it was cheaper than renting and better for the care of their mom.
12. The Tenant's brother Sungho Im testified that the time waiting for the decision from the Board was very stressful and he gave up his apartment to help buy a house to help his family.

Landlord's Evidence

13. The Landlord testified that her son and his wife moved into the basement rental unit approximately one month after the Tenant vacated, as some repairs had to be made to the unit. A copy of his driver's licence and bills in his name with the rental address were submitted as supporting evidence. She further submitted bills for the rental address in the name of her daughter-in-law.
14. The Landlord testified that the N12 was served because her son was getting married. She testified that her son did get married and had a child and her son and his family moved into the basement unit.
15. The Landlord testified that a room in the basement was listed for rent to help her son manage the bills because his wife was not working as she was on maternity leave.

16. The Landlord submitted copies of e-transfers from Minwoo Han, the person who rented the room in the basement unit starting September 21, 2025 until present.
17. The landlord's witness Winwoo Han testified that he rents a room in the basement and lives with the Landlord's son and his family. He further testified that he shares the kitchen and bathroom with the Landlord's son.

Analysis

18. The Tenant must prove on a balance of probabilities the 4 elements contained in subsection 57(1)(1) of the Act as outlined above.
19. The first and second elements of subsection 57(1)(a) are uncontested; the parties agree that the Tenant moved out of the rental unit on September 30, 2024, because of an N12 notice of termination served by the Landlord under section 48 of the Act.
20. With respect to the issue of whether the Landlord's son moved into the unit within a reasonable amount of time after the Tenant vacated, I find that both the Landlord and the Landlord's witness provided straightforward and consistent evidence establishing that the Landlord's son did move into the rental unit approximately one month after the Tenant vacated the unit and that he still resides in the unit with his family and a roommate Winwoo Han.
21. The Tenant and his witness also gave straightforward and consistent evidence with respect to finding the listing for the rental unit the belief that the Landlord's son had not moved into the unit.
22. Based on the evidence before me, I am satisfied on the balance of probabilities that the Landlord has rebutted the presumption of bad faith. The Landlord and her witness' evidence were consistent that he was a roommate of the Landlord's son and this was supported by the Tenant's copy of the ad which stated, "renting a basement room".
23. The Tenant has not proven all the elements of the test required for his application to be successful. Therefore, his application is dismissed.
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 evidence and oral testimony when making my determinations.

It is ordered that:

1. The Tenant's application is dismissed.

May 28, 2026
Date Issued

Brenda Mercer
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.