



Order under Section 57 Residential Tenancies Act, 2006

Citation: Lu v Jinnah, 2026 ONLTB 34857

Date: 2026-05-29

File Number: LTB-T-091179-25

In the matter of: 6402, 10 YORK ST
TORONTO ON M5J0E1

Between: Tianbai Lu Tenant
Nuo Ya Wang

And

Saif Jinnah Landlord
Asma Imran Jinnah

Tianbai Lu and Nuo Ya Wang (the 'Tenant') applied for an order determining that Saif Jinnah and Asma Imran Jinnah (the 'Landlord') gave a notice of termination in bad faith.

This application was heard by videoconference on April 27, 2026.

The Landlords and the Landlord's representative, Jimmy Gangadin, and the Tenant attended the hearing.

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.
2. 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.
3. The parties do not dispute the following:

- The Tenant received an N12 notice for Landlord's own use, given under section 48 of the Act, claiming the Landlord Saif Jinnah required possession of the rental unit. The N12 Notice had a termination date of December 31, 2024.
 - The Tenant moved out as of June 7, 2025, as a result of the N12 notice.
4. The only issues that need to be determined are whether the Landlord occupied the rental unit within a reasonable time after the Tenant moved out and whether the N12 notice was given in bad faith.
 5. The Tenant discovered a for sale listing of the rental unit on August 5, 2025. The Tenant believes that that after they vacated the rental unit, the unit remained vacant for some time and then it was listed for sale.
 6. The Landlord's son testified that he moved into the rental unit around the second week of August as most of his furniture did not arrive until then and since then he has been living in the unit.
 7. The Landlord Saif Jinnah ('SJ') provided in evidence Uber Eats receipts from the period of October 1, 2025, through to November 2025. He also provided copies of utility bills for the rental unit that span from July 15, 2025, to March 2026. SJ testified that from July 2025 to August 15, 2025, the utility consumption was low because SJ was delayed moving into the unit because of lack of the furniture.
 8. The Landlord Asma Imran Jinnah ('AJ') testified that she and her husband are developers and a project they were working on went underwater because the purchasers backed out. As such, they needed to re-finance their properties to pay out the bank, investors and themselves. AJ testified that they listed their four properties for sale including the rental unit to receive offers that they could use to show value in order for the bank to approve a second mortgage. AJ testified that this was the only reason they listed the rental unit for sale, it was not their intention to sell the rental unit, and the rental unit is still under their ownership, and SJ still resides in the unit.
 9. Based on the evidence, the presumption of bad faith in subsection 57(5) of the Act applies to this situation. This provision 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 the 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,

...

(c) advertises the rental unit, or the building containing the rental unit, for sale...

10. This provision means that, because there is evidence before me that during the one-year period after the Tenant moved out of the rental unit the Landlord listed the rental unit for sale, it is presumed that the notice was given in bad faith. The onus then shifts to the Landlord to rebut the presumption and prove that they did not serve the notice of termination in bad faith.
11. In this case, the evidence from the Landlord SJ was that they did move into the rental unit as of August 2025, and they are still occupying the unit.
12. I find that the Landlord did occupy the rental unit for at least 12 months as required when a landlord terminates the tenancy with a notice of termination served under section 48 of the Act.
13. There is no evidence before the Board to substantiate or corroborate the Tenant's claim that the Landlord did not move into the rental unit within a reasonable time after the Tenant vacated.
14. The evidence of Tenant was that the Landlord listed the rental unit for sale. I do not find that this alone establishes that the Landlord did not occupy the unit. The Tenant also did not visit the rental unit after they vacated to confirm who moved into the rental unit.
15. Given it was not disputed that there are charges for utilities in the name of Landlords which reflect usage. I also find the very fact that all their bills and accounts was placed in the Landlord's name for approximately a year support a finding of residential occupation.
16. I find that for the utility bills show variation in electricity and water usage. Further, the utility bills show variability in thermal cooling charges in the spring, summer, and fall and thermal heating charges in the winter. Given the variable usage of utilities, I was not satisfied that no one resided in the rental unit.
17. The Tenant did not present any concrete evidence to challenge the Landlord's position on these points. Therefore, I cannot find that the Tenant proved on a balance of probabilities that the Landlord SJ did not move into the rental unit within a reasonable time after the Tenant vacated.
18. On an application to the Board, the person who alleges a particular event occurred has the burden of proof to establish that it is more likely than not that their version of events is true.
19. The evidence was that rental unit was listed for sale on August 5, 2025, and it failed to sell. As a result, I find the evidence supports finding the Landlord was to occupy the rental unit for the time required under the Act. The Landlord also provided a reasonable explanation for why they listed the rental unit for sale, which was not inconsistent with their own personal occupation of the rental unit.
20. Therefore, I find the Landlord has rebutted the presumption that the N12 was served in bad faith and have proven on a balance of probabilities that the N12 was given in good faith. The Tenant's application must therefore fail.

21. As the Tenant cannot establish all the requirements of subsection 57(1)(a), the Tenant's application must be dismissed.

It is ordered that:

1. The application is dismissed.

May 29, 2026
Date Issued

Vinuri Sivalingam
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.

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