



Order under Section 57 Residential Tenancies Act, 2006

Citation: Walker v Tremblay, 2026 ONLTB 43506

Date: 2026-06-04

File Number: LTB-T-057617-25

In the matter of: 99 SELKIRK DR
Kitchener ON N2E1M5

Between: Sarah Walker Tenant
Daniel Wheeler

And

Loraine Tremblay Landlord
Jennifer and Tony Huynh

When the capitalized word “Landlord” is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word “Tenant” is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Sarah Walker and Daniel Wheeler (the 'Tenant') applied for an order determining that Loraine Tremblay and Jennifer and Tony Huynh (the 'Landlord') gave a notice of termination in bad faith.

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

The Landlord's (POA) and daughter Jennifer Huynh (JH), the Landlord's legal representative Tavroges, the Landlord's witness Andrew Khoshaba and the first named Tenant Sarah Walker (SW) 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.

The Tenant's evidence

3. The Tenant submitted that they were given an N12 notice by the Landlord on or about May 31, 2024 with a date to vacate of July 31, 2024. That this notice was motivated by work completed to address mould remediation that had taken place, having commenced on or about November 2024 and concluded in May 2024. That the notice was a form of retaliation as when mould was discovered in the basement of the home, the Tenants called by-law enforcement, and the Landlord incurred a cost for repair. The cost was said to have been substantially more than the initial flood damage that was being addressed as resulting from a collapsed ceiling.
4. The N12 notice indicating that the Landlord's child was moving into the rental unit, specifically her daughter Jennifer Huynh.
5. To avoid a hearing of the Landlord's L2 application based on the N12 notice, the Tenant submitted that they signed an N11 Agreement to End the Tenancy on July 11, 2024 with a termination date of July 31, 2024.
6. The Tenant's agreed to accept \$10,000.00 as part of the N11 agreement to vacate. This payment was confirmed to have been received by the Tenants once they moved out.
7. The Tenants believes that no one moved into the rental property after they moved out. This is based on (SW's) mother's confirming this as she resides a few doors down from the rental property and through other residents who the Tenants are acquainted with since residing on the street.
8. The Tenants lived in the property for 4 + years and prior the Tenant (SW) resided on the street as a child, in her family home as still occupied by her mother.
9. While the observations of the property are that while the property has been seen to have been maintained in terms of outdoor and lawn maintenance activities, that no one moved into nor resided at the rental property until November 2025.
10. In the Board's record the Tenant relies on DOC-7510987, a handwritten note dated March 3, 2026 of Leslie Schafer, her mother and resident of 131 Selkirk Dr Kitchener. In the note she details that on her nightly dog walks, she has not seen anyone residing at rental property from August 2024 to November 2025.
11. On cross examination, the Tenant confirmed that there was no evidence of the rental unit being re-rented or listed for sale nor any evidence to support the remedies sought. Specifically, while the Tenant claimed a rent differential, no copies of a new lease agreement in respect of the property they moved into on August 1, 2024 was evidenced.

Landlord's Evidence – J. Huynh

12. (JH) submitted that she moved into the rental property at the end of August 2024 and that she continues to reside there, participating in the hearing from the rental property. Having moved in as she was having marital problems.
13. (JH) testified that her mom, the Landlord paid the Tenants \$10,000.00 as part of the N11 agreement as they knew that it would take a long time for the matter to be scheduled for hearing. That the Tenants were not forced to sign the agreement and that they attempted to negotiate, seeking the payment of \$20,000.00.
14. (JH) evidenced a variety of utility bills and photos of her at the rental property to support her residency and reliance on the utilities and her drivers license to confirm her residency.
15. Further, that she reconciled with her husband, sold their matrimonial home and that he moved into the rental unit on or about November 21, 2025, where they continue to reside together.

Analysis:

16. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
17. There was no dispute between the parties that the N11 was proposed by the Landlord and that the Tenants accepted the payment of \$10,000.00 in lieu of proceeding to a hearing in connection to the N12 notice, the Landlord's L2 application filing was scheduled for hearing in November 2024.
18. In the T5 application, the Tenant while submitting that they "*decided to sign an N11 anyway under significant stress*," at the time of the hearing the submission was the decision was made to avoid a hearing as understanding that it would be difficult to defend against the Landlord's L2 application. The N11 was signed on July 11, 2024 prior to the expiration date of July 31, 2024 as outlined on N12 notice.
19. Effectively, the N11 agreement was superseded by the N12, resulting in a binding contract between the parties to end the tenancy on July 31, 2024 pursuant to the N11 notice, *An Agreement to Terminate the Tenancy*.
20. There are three elements necessary to form a binding contract. There must be:
 - (i) An offer from one party to form a contract, which is accepted by the other party;
 - (ii) An intention to create legal relations between the two;
 - (iii) Consideration, or the exchange of something of value in exchange for the contract.
21. Here, I find the signing of the N11 was a binding agreement between the parties. Based on the evidence before me, I am satisfied that the Tenants had a choice when signing the

N11 notice, there was no evidence adduced to consider otherwise. Therefore, I am satisfied that the Tenants vacated the property pursuant to the N11 notice.

22. As outlined, to be successful on a T5 Application pursuant to 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.

23. Here, it is not disputed that the Tenants were served an N12 notice however, they have not proven that they vacated the property because of the notice, rather, the evidence was that they signed an N11 agreement on July 11, 2024, accepted \$10,000.00 and vacated pursuant to this agreement.

24. Given the above, as the Tenants did not prove that they vacated the rental unit pursuant to the N12 notice of termination the Landlord served them under section 48 of the Act it is not necessary to address the evidence led at the hearing relevant to the questions of bad faith and whether no person referred to in subsection 48(1) of the Act occupied the rental unit within a reasonable time after the Tenants vacated.

25. Accordingly, the Tenants' application must be dismissed.

26. Alternatively, given the totality of the submissions, I am satisfied that the Tenants did not lead sufficient evidence to support that no one moved into the rental unit after they vacated. Therefore, the outcome of the T5 Application would remain unchanged.

27. This order contains all the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The Tenant's application is dismissed.

June 4, 2026
Date Issued

Alicia Johnson
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.