



Order under Section 57 Residential Tenancies Act, 2006

Citation: Bayat v Qaiser, 2026 ONLTB 43012

Date: 2026-06-05

File Number: LTB-T-037939-25

In the matter of: 174 ANTHONY LANE
CONCORD ON L4K3K6

Between: Payam Bayat Tenant

And

Husnain Qaiser Landlord

And

Nafees Faisal Purchaser

Payam Bayat (the 'Tenant') applied for an order determining that Husnain Qaiser (the 'Landlord') and Nafees Faisal (the 'Purchaser') gave a notice of termination in bad faith.

This application was heard by videoconference on April 8, 2026.

The Landlord, the Landlord's Legal Representative Cuiwen Hu, the Purchaser, the Purchaser's Legal Representative Elaine Page and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities against the Purchaser. Therefore, the Purchaser must pay the Tenant \$6,036.00.
2. Subsection 57(1)(b) 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 49 of the Act;
 - The Tenant vacated the rental unit as a result of the N12 notice of termination;
 - No person referred to in subsection 49(1) or 49(2) 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. There is no dispute between the parties that the Landlord served an N12 notice of termination ('N12 notice') which alleged that the Purchaser intended to move into the rental unit, that the Tenant vacated because of the N12 notice on April 6, 2025 after a Board order was issued. There is no dispute between the parties that the purchase of the property fell through, and that the Purchaser never moved into the rental unit. The only question that remains is whether the N12 notice was served in bad faith.
 4. In *Elkins v. Van Wissen*, 2023 ONCA 789, the Court of Appeal for Ontario held that when deciding a T5 application relating to an N12 served for purchaser's own use under section 49 of the Act, the LTB must consider both the landlord's and the purchaser's good faith. After making both those determinations, the LTB must then consider what orders to make in respect of the landlord and the purchaser.
 5. For the following reasons I find that the Purchaser served the N12 notice of termination in bad faith, but the Landlord did not.

Landlord's Good Faith

6. The Landlord spouse Tanzeela Mahmood ('T.M.') provided testimony on behalf of the Landlord, as although he was present at the virtual hearing he was unwell and in hospital.
7. T.M. testified that neither she nor the Landlord knew the purchaser prior to entering into an agreement of purchase and sale. The Landlord received a declaration of the Purchaser, which states that he and his wife personally intended to occupy the main floor rental unit. The Landlord and Purchaser signed an agreement of purchase and sale on October 29, 2024 with a closing date of January 10, 2025. Based on the representation by the Purchaser the Landlord served the Tenant with an N12 notice of termination. The closing date for the sale of the property was extended because the Tenant would not vacate without an eviction order. The Landlord received an email from the Purchaser's lawyer on April 15, 2025 after the Tenant vacated requesting to extend the closing date for two weeks. The Landlord agreed to extend the closing date to April 24, 2025. On April 23, 2025 the Purchaser's lawyer emailed the Landlord indicating that the Purchaser would be unable to complete the closing due to unfortunate reasons, but provided no further details.
8. The Landlord deemed the Purchaser in breach of their agreement and the Purchaser agreed to forfeit his deposit in the amount of \$25,000.00 to the Landlord and a mutual release was signed.
9. The Landlord relisted the property on May 9, 2025, as it was critical to do so as soon as possible as the Landlord owed \$200,000.00 to the Canadian Revenue Agency and over \$100,000.00 in credit card bills, The Landlord's corporation was also in debt and the Landlord needed to reduce their debt.
10. T.M. testified due to their financial situation she and the Landlord needed to rent their primary residence and move in with her sister just to make ends meet.

11. The Landlord reduced the price of the rental property multiple times, but were still unable to sell the rental unit and entered into a new tenancy agreement to rent the unit commencing August 1, 2025.
12. A landlord who takes no steps to confirm that a purchaser actually wants to move into a rental unit is not serving the notice in good faith. However, that is not what happened here. In this case the Landlord did act diligently to confirm the Purchaser's intentions. The Landlord received a written declaration from the Purchaser outlining their intentions. The Purchaser waived a condition with respect to financing on November 3, 2024, and agreed to amendments of the closing date during the eviction process showing that he was still interested. The Purchaser attended the hearing for the Landlord's eviction application and provided testimony. The Landlord received an email from the Purchaser's lawyer that he was not going to follow through with the sale after the Tenants vacated. I find that the Landlord took adequate steps to confirm the Purchaser's intention and that based on the information available to the Landlord it was reasonable for the Landlord to believe that the Purchaser genuinely intended to move into the rental unit.
13. For those reasons the claim is dismissed against the Landlord.

Purchaser's Bad Faith

14. While I believe the Purchaser that he originally intended to purchase the property to live in with his family, the Court in *Elkins* established that the LTB should consider all relevant evidence when determining whether the N12 was served in bad faith and should not restrict itself to consideration of whether there was good faith at the time the N12 was served.
15. The Purchaser testified that he went to Pakistan at the end of December, 2024 as his father had become ill. Unfortunately, his father passed away on January 24, 2025. The Purchaser returned from Pakistan on February 2, 2025. He states that the unforeseen trip had had a financial impact on him and the money he used on the trip was supposed to go towards his down payment. Notwithstanding the expenses incurred he still intended to close the deal and believed he still could.
16. The Purchaser further testified that he had planned to borrow \$150,000.00 from a friend in order to complete the purchase of the property, but when he reached out to his friend as the closing date neared his friend told him that he would not be able to lend him any money. It was at this point that the Purchaser asked his lawyer to request an extension of the closing date.
17. The Purchaser states that during this extension he attempted to secure the \$150,000.00 he needed from other sources including family, but was unsuccessful and could not proceed with the purchase of the rental property.
18. The Purchaser waived the financing condition on the agreement of purchase and sale on November 3, 2024, without properly securing all the financing he required to complete the purchase of the property. Additionally, the Purchaser testified that his unforeseen trip to Pakistan had an impact on the finances he was planning to use to complete the purchase.

19. Notwithstanding that he knew or ought to have known that his finances were in question he proceeded to testify at the hearing of the Landlord's eviction application and neglected to advise the Board of his current financial situation. Additionally when he had his lawyer request an extension of the closing date he failed to provide the Landlord with the reason for the extension or any issues he was having with respect to financing that might affect the closing of the sale.
20. I do not find that the Purchaser acted diligently and maintained a genuine intention to purchase the property and move in. The Purchaser had an obligation to maintain his awareness about his financial circumstances and failed to do so.
21. For those reasons I find that the Purchaser did not maintain a good faith intention to move into the rental unit and that therefore the N12 notice was served in bad faith.

Remedies

22. The Tenant seeks a difference in rent between the old rental unit and the new rental unit for a period of one year. He described the old and new rental units as being similar in size. He testified that he was previously paying \$3,400.00 per month to rent the rental unit and is currently paying \$3,900.00 per month in rent at the new rental unit and provided a lease agreement supporting this claim. In cross examination the Tenant agreed that his monthly rent had increased effective January, 2025 to \$3,485.00.
23. The difference in rent between the agreed upon monthly rent when the Tenant vacated being \$3,485.00 and his currently monthly rent \$3,900.00 is \$415.00 per month being \$4,980.00 for one year.
24. I am satisfied that rent differential is appropriate in the circumstances. Therefore the Purchaser must pay to the Tenant \$4,980.00 for the increase rent that the Tenant has incurred for a one year period after the Tenant moved out of the rental unit.
25. The Tenant seeks moving expenses he incurred as a result of moving from the rental unit. At the hearing he provided oral testimony that his moving expenses were \$1,008.00, but did not provide any supporting documentation. Neither the Landlord, nor the Purchaser questioned the amount claimed by the Tenant for moving expenses and I find the amount claimed reasonable in the circumstances. Therefore, I find that the Purchaser must pay the Tenant \$1,008.00 for the reasonable out-of-pocket moving, storage and other like expenses that the Tenant incurred as a result of having to move out of the rental unit.
26. The Tenant seeks general damages in the amount of \$15,000.00 for the emotional distress and impact on his child in relocating and disruption of his schooling, his own loss of work and time due to a longer commute and adjusting to a new area. The tenant also seeks reimbursement of legal fees of \$2,850.00 which he paid for representation at the eviction hearing on the N12.
27. The Board's authority to order general compensation is found at section 57(3)(1.1), which states: 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. [Emphasis added].

28. The Tenant did not substantiate or expand on these claims. Without a more fulsome explanation I am not satisfied on a balance of probabilities that the Tenant is entitled to general damages. With respect to the Tenant's claim for legal fees it would be inappropriate to award any costs for legal fees in relation to another matter, additionally these fees were not substantiated.

29. In the circumstances I find that the Tenant is not entitled to any general damages.

It is ordered that:

1. The total amount the Purchaser shall pay the Tenant is \$6,036.00. This amount represents:
 - \$4,980.00 for increased rent the Tenant has incurred or will incur for one year after vacating the rental unit.
 - \$1,008.00 for the reasonable moving expenses that the Tenant incurred as a result of having to move out of the rental unit.
 - \$48.00 for the cost of filing the application.
2. The Purchaser shall pay the Tenant the full amount owing by June 16, 2026.
3. If the Purchaser does not pay the Tenant the full amount owing by June 16, 2026, the Purchaser will owe interest. This will be simple interest calculated from June 17, 2026 at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

June 5, 2026
Date Issued

Sean Ramage
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.