



Order under Section 69 Residential Tenancies Act, 2006

Citation: Dodick v Rubenstein, 2026 ONLTB 45018

Date: 2026-06-12

File Number: LTB-L-015170-26

In the matter of: Upstairs, 8 ARTREEVA DR
NORTH YORK ON M3H4T5

Between: Hana Dodick Landlord

And

Bonnie Rubenstein Tenant

Hana Dodick (the 'Landlord') applied for an order to terminate the tenancy and evict Bonnie Rubenstein (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on May 13, 2026.

The Landlord's Legal Representative, Guiseppe Rizzuto, the Landlord, the Tenant's Legal Representative, Ademofe Oye-Adeniran and the Tenant attended the hearing.

Determinations:

1. Although the Landlord proved, on a balance of probabilities, that she requires vacant possession of the rental unit for her own use for at least one year, I conclude it is appropriate to exercise my discretion under subsection 83(1)(a) of the *Residential Tenancies Act*, 2006 (the "Act") to refuse to grant the application, based on all of the circumstances.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The rental unit is a single detached house with an upstairs unit and a basement unit. The Tenant resides in the upstairs unit.

4. On January 23, 2026, the Landlord served the Tenant an N12 notice of termination deemed served on January 28, 2026 with the termination date of March 31, 2026. The Landlord claims that she requires vacant possession of the rental unit for the purpose of residential occupation for herself.
5. In support of this application, the Landlord filed a declaration dated February 4, 2026 which complies with section 72(1) of the *Residential Tenancies Act*, 2006 (hereinafter referred to as the "Act") and the Landlord provided further evidence at the hearing.
6. I have carefully reviewed the documentary evidence before me, the testimony of the parties and I have considered the parties' submissions. 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.

Landlord's Evidence

7. The Landlord testified that she is currently living in a large 2-storey house and that she has always intended to move into the rental unit to downsize as she ages. She stated that she plans to live in the rental unit, including the upstairs unit and the basement unit, for as long as she is alive. She stated that she also served the basement tenant with an N12 notice of termination.
8. The Landlord stated that she requires living in a bungalow as she suffers from health issues including arthritis in her knees. She stated that her current house has 14 stairs to climb up and down every day which is difficult for her.
9. In cross-examination, the Landlord confirmed that she received an Inspection Order from the Toronto Fire Services on February 12, 2026 which advised her that the house required fire separations between each of the rental units and it required fire-rated doors. She stated that the order was deferred for 6 months and that it didn't matter because she was moving into the unit and using it as a single dwelling.
10. In cross-examination, the Landlord confirmed that the Tenant contacted 311 in late December of 2025 to report HVAC issues in the rental unit and that a Property Standards Order was issued against her for these issues. The Landlord stated that the issues were rectified and that she has always maintained the house properly.
11. The Landlord was asked about an email that she sent to the Tenant on December 30, 2025 advising the Tenant that she would bring legal action against her if she embellished her complaint to the city. The Landlord confirmed that she stated that to the Tenant because she felt that she was impersonating her and that the Tenant did not have authority to require someone to inspect her house.

Tenant's Evidence

12. The Tenant stated that she has resided in the rental unit for 20 years and that she now resides there alone as her children have grown up and moved out.
13. She stated that she has always had issues getting the Landlord to provide maintenance and repairs to the rental unit. She stated that she has been complaining about the HVAC

system for years but that in November of 2025, the furnace really started malfunctioning, it was short circuiting and the air vents were not working properly. The Tenant stated that she was worried about carbon monoxide leaks and other negative effects.

14. The Tenant stated that she kept emailing the Landlord about her concerns and pointed me to four separate emails to the Landlord requesting that the furnace be inspected. She stated that she received no response from the Landlord so she contacted 311 on December 29, 2025 to request a property standards inspection. The Tenant notified the Landlord that she had done that on December 29, 2025 and received the warning that the Landlord would "take legal action against her" if she felt it was necessary. The Tenant pointed out that she was also called a "bitch" by the Landlord in one of her emails.
15. The Tenant stated that the by-law officer commenced communications with both the Landlord and the Tenant and notified the Landlord of her obligations to maintain the rental unit. She stated that some repairs took place but the HVAC system was not working properly and the heating vents were not working. She stated that the bedrooms were not staying warm enough and the furnace continued to run all the time.
16. The Tenant stated that the Landlord's inaction caused her to fear for her safety in the rental unit and she requested that Toronto Fire Services attend for an inspection of her unit. She stated that her communications and the fire department's inspection took place between January 16-21, 2026 and that they also found violations and issued an order against the Landlord. The Tenant relayed that information to the Landlord.
17. The Tenant stated that due to the continued lack of heat in certain rooms, the by-law officer communicated to the Landlord on January 23, 2026 that she must provide a space heater to the Tenant while making arrangements for a permanent fix of the furnace. She stated that the Landlord was in no hurry to rectify the malfunctioning furnace and that a Property Standards Order was issued against the Landlord.
18. The Tenant stated that she received the N12 notice on January 23, 2026 right after the by-law officer informed the Landlord that she was required to address the lack of heat issue. The Tenant believes that the Landlord is retaliating against her due to her interventions with the fire department and the by-law department. The Tenant stated that she had no choice but to stand up for herself so that she could have a safe rental unit because the Landlord failed to take her concerns seriously and ignored some of them completely. She further stated that the municipal orders confirmed that her concerns were valid.
19. The Tenant stated that as she has resided in the unit for 20 years, she is very settled, she is close to her mother and to her studio, and she is unable to afford other accommodations. She also suffers from an auto immune disease which is chronic and it is exacerbated by stress. She is requesting a 6-month delay if eviction is ordered.

Analysis and Application of the Law

20. On an application before the Board, the person who seeks an order terminating the tenancy has the burden of leading sufficient evidence to establish that i) the technical requirements of the Act have been met, and ii) it is more likely than not that their version of events is true. In this case, the burden falls on the Landlord.

21. The N12 notice served pursuant to subsection 48(1)(a) of the Act allows a landlord to give a notice of termination if the landlord requires possession of the rental unit for the purpose of residential occupation for at least one year.
22. In making its determinations under section 48, the Board must also consider the good faith intent of the applicants. Under section 72 of the Act, the Board cannot terminate a tenancy and evict the tenant unless the landlords have satisfied that they are proceeding in good faith.
23. The leading case on the determination of good faith in a landlord's own use application is *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), [2001] O.J. No. 2792 (Div. Ct.). *Salter v. Beljinac* was decided under a similarly worded section of the previous legislation. The test is whether, on a balance of probabilities, a landlord genuinely wants the rental unit and intends to occupy, or have his family member occupy, the unit as a residence. The test before me in this case is whether the Landlord genuinely intends to move into the rental unit and occupy it for a period of at least one year.
24. The subsequent case law also confirms that while the good faith of the Landlord remains the test to be applied in this application, I may also draw inferences about the Landlord's good faith from the Landlord's conduct and motives [*Fava v. Harrison* 2014 ONSC 3352 (ONSC DC)]
25. Although the Landlord's evidence was somewhat vague, the Tenant provided no compelling evidence challenging the Landlord's intentions.
26. On the basis of the evidence before the Board, I have no reason to doubt the truthfulness of the Landlord's good faith intention to move into the rental unit herself. I am therefore satisfied on a balance of probabilities that the Landlord served the N12 notice in good faith and intends to reside in the rental unit for no less than one year.

Discretionary Relief from Eviction

27. Subsection 83(1)(a) of the Act states that the Board may refuse to grant an application to terminate a tenancy and evict a tenant if, having regard to all the circumstances, it is not unfair to do so.
28. According to section 83(3) of the Act, certain circumstances require that the Board refuse an application. These circumstances include where a landlord is in serious breach of its responsibilities under the Act, where an application has been brought due to a tenant complaining to a governmental authority of a landlord's violations, where an application has been brought because the tenant attempted to secure or enforce his legal rights, where an application is brought because the tenant is a member of a tenant's association or the reason for the application being brought is that the rental unit is occupied by children and it does not constitute overcrowding.
29. The facts before me, particularly the Landlord's statement that "she would take legal action against the Tenant", supports the Tenant's allegation that the Landlord formed her decision to repossess the rental unit because the Tenant continued to stand up for her right to

reside in a safe and maintained residential unit. With the Landlord's refusal to address the Tenant's concerns, the Tenant reported her concerns to a governmental authority. The Landlord served the N12 notice to the Tenant on the same date that the by-law officer again reminded her that she was required to comply with her responsibilities under the Act.

30. It is these kinds of circumstances where the discretionary relief provisions of the Act were designed to apply to, where it would be most unfair to grant the application requested despite a finding of landlord's own use. The Landlord is obliged to ensure that the rental unit is in a good state of repair and that any maintenance issues are dealt with promptly. The Tenant should not now have to pay the price by being evicted because she attempted to enforce her legal rights.

It is ordered that:

1. The Landlord's application is dismissed.

June 12, 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.