



**Order under Section 69
Residential Tenancies Act, 2006**

File Number: LTB-L-022163-26

In the matter of: 107 LAWRENCE PILKINGTON AVE
MARKHAM ON L6B 0Y6

Between: MCF Mortgage Investment Services Inc. Landlord

And

Antony Xavier
Branavan Kanapathipillai

Tenants

MCF Mortgage Investment Services Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Antony Xavier and Branavan Kanapathipillai (the 'Tenants') because:

- the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

This application was heard by videoconference on June 9, 2026.

The Landlord's legal representative, Nathan Chevalier, Landlord agent, Korin Wilson, Landlord witness Marlon Warren and the Tenant, Branavan Kanapathipillai attended the hearing.

The Tenant, Branavan Kanapathipillai stated that Antony Xavier would not be attending the hearing and he had authority to speak on their behalf.

Determinations:

Preliminary Issue:

Tenant's Request to Adjourn Denied:

1. The Tenant requested an adjournment. The Tenant stated he felt fatigued and was having difficulty speaking due a medical incident on May 26, 2026. The Tenant referred to a medical note at page 17 of his evidence package (DOC-8083686) which stated the Tenant was deemed "totally disabled on Tuesday, May 26, 2026" and provided a "Return to regular work" on Monday June 15, 2026.

2. However, the Tenant also stated that he was prepared to proceed and has the evidence submitted to defend his position.
3. The Landlord's legal representative was opposed the request; he submitted that the medical note was vague and did not speak to the Tenant's ability to participate within the virtual proceedings. Further he submitted that while the Tenant stated he felt fatigued and could not speak, he was actively participating in the proceeding. Furthermore, he submitted that the adjournment would be highly prejudicial due to the Agreement of Purchase and Sale and risk of the sale not being completed due to the adjournment.
4. I asked the Tenant if the Board provided accommodations during the proceeding, such as rest times or breaks during the proceeding would that be sufficient to address the Tenant's ability to engage in the hearing. The Tenant confirmed his agreement with proceeding in this manner and reiterated he was fully prepared to proceed.
5. The adjournment request was denied. The hearing proceeded with the understanding that the Tenant would be afforded accommodations where he required.

L2 Application

6. For the reasons that follow, I find that the Landlord's application must be dismissed because the notice of termination does not comply with the requirements of the *Residential Tenancies Act, 2006* (the "RTA").

Is MCF Mortgage Investment Services a Landlord?

7. It was uncontested that MCF Mortgage Investment Services Inc. is the mortgage holder.
8. The Landlord's agent, Korin Wilson testified that they took possession of the property as they were not receiving payments from the mortgagee, Rajani Rajendran and intend to sell the property to secure their investment.
9. Section 2(1) of the RTA states that a "landlord" includes:
 - (a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential complex and who permits another person to also occupy the unit or any part of the unit,
 - (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and
 - (c) a person, other than a tenant occupying a rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent; ("locateur").

10. Subsection 48(2) of the *Mortgages Act* states that a person exercising rights under a mortgage who gives notice of termination of a tenancy shall be deemed to be a landlord under subsection 47(1).
11. Subsection 47(1) of the *Mortgages Act* states that a person who becomes the mortgagee in possession of a mortgaged residential complex which is the subject of a tenancy agreement between the mortgagor and a tenant or who obtains title to the residential complex by foreclosure or power of sale shall be deemed to be the landlord under the tenancy agreement.
12. In *Manufacturers Life Insurance Co. v. Granada Investments Ltd.*, 2001 CanLII 2708 (ON CA), the Court of Appeal stated at paragraph 56 that a mortgagee enters into possession when it deprives the mortgagor of control and management of the mortgaged property.
13. Subsection 47(2) of the *Mortgages Act* states that a person who is the landlord under the tenancy agreement ceases to be the landlord while another person is deemed to be a landlord under subsection 47(1). Additionally, s. 18 of the RTA states that Covenants concerning things related to a rental unit or the residential complex in which it is located run with the land. This means that a new landlord steps into the shoes of the old landlord. A landlord is a single indivisible entity. There is only one pair of shoes to fill.
14. For those reasons I find that MCF Mortgage Investment Services Inc is the landlord for the purposes of the Act and that Rajani Rajendran is no longer the landlord.

Tenant's Fixed-Term Tenancy

15. On March 2, 2026, the Landlord served the Tenants with an N12 Notice of Termination ('N12 notice') on March 3, 2026 with the termination date of May 31, 2026. The N12 notice was given on behalf of the Purchaser(s) who claimed that they require vacant possession of the rental unit for the purpose of residential occupation by the purchaser and their spouse.
16. The N12 notice was served pursuant to s. 49(1) of the RTA, it states:

A landlord of a residential complex that contains no more than three residential units who has entered into an agreement of purchase and sale of the residential complex may, on behalf of the purchaser, give the tenant of a unit in the residential complex a notice terminating the tenancy, if the purchaser in good faith requires possession of the residential complex or the unit for the purpose of residential occupation by,

(a) the purchaser;

(b) the purchaser's spouse;

17. S. 49 (3) of the RTA speaks to the required termination date for this type of notice:

Period of notice

(3) The date for termination specified in a notice given under subsection (1) or (2) shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term. 2006, c. 17, s. 49 (3).

[Emphasis added]

18. The Tenant referred to the Lease Agreement found at page 9 of the Tenant's evidence package. The Lease Agreement was entered into on April 18, 2022 between the Tenant's and the Landlord, Rajani Rajendran. The Lease Agreement shows the term being five-years from May 1, 2022 to April 30, 2027.
19. The Tenant submitted that the Landlord is unable to terminate the tenancy before the end of the fixed term of the Lease Agreement based on an N12 notice served under section 49 of the RTA.
20. The Landlord's agent submitted that as the term was for five-years it was required to be registered on title, and it was not. Furthermore, the Tenants are paying below market value for the property, therefore the tenancy should be allowed to be terminated.
21. I find that there is a valid lease agreement in effect for a 5-year term from May 1, 2022 to April 30, 2027. The Tenant's testimony regarding the Lease Agreement was uncontested. The Landlord's legal representative nor the Landlord's agent disputed the validity of the Lease Agreement the Tenant entered into with the former Landlord. The fact that the agreed upon rent may be less than the market rent has no impact upon its validity under the Act. Similarly, even if the lease should have been registered on title that does not affect its validity under the Act.
22. Therefore, April 30, 2027 is the end of the term of this tenancy. The termination date on the N12 Notice was May 31, 2026, which is not the end of the fixed term and does not comply with s.49(3) of the RTA.
23. The Board cannot terminate the tenancy on the basis of a defective notice of termination.
24. The Landlord compensated the Tenants in the amount equal to one month's rent in accordance with ss. 49.1 and 55.1 of the RTA.
25. Given the Landlords did provide non-negotiable compensation, and I am dismissing the Landlords' application, I will hereby order that the Tenants, if the Tenants have not already done so, return the non-negotiable compensation cheque received.
26. This order contains all of the reasons for the decision within it and no further reasons will be issued.

It is ordered that:

1. The Landlord's application is dismissed.

2. The Tenants shall return the compensation cheque provided by the Landlords not later than July 4, 2026.

June 23, 2026
Date Issued

Angela Smith
Member, Landlord and Tenant Board

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