



Order under Section 69 Residential Tenancies Act, 2006

Citation: Xie v Aldaw, 2026 ONLTB 46852

Date: 2026-06-16

File Number: LTB-L-018584-26

In the matter of: 430 BRECKENRIDGE CRES
KANATA ON K2W1J3

Between: Lan Xie
Qi Yao Landlords

And

Mamdouh Aldaw
Hanadi Sultan
Seraj Aldaw
Najah Aldaw Tenants

Lan Xie and Qi Yao (the 'Landlords') applied for an order to terminate the tenancy and evict Mamdouh Aldaw, Hanadi Sultan, Seraj Aldaw and Najah Aldaw (the 'Tenants') because:

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

This application was heard by videoconference on June 1, 2026.

The Landlords' Legal Representative, Lacy Sun, the Landlords and the Tenant attended the hearing.

Determinations:

1. Although the Landlord proved, on a balance of probabilities, that they require vacant possession of the rental unit for the Landlord's 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 Tenants were in possession of the rental unit on the date the application was filed. The rental unit is a townhouse and the Tenants have been residing there for 5 years.

3. On February 12, 2026, the Landlords gave the Tenants an N12 notice of termination deemed served on the same date with the termination date of April 30, 2026. The Landlords claim that they require vacant possession of the rental unit for the purpose of residential occupation for themselves.
4. In support of this application, the Landlords filed a declaration which complied 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.
5. 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.

Evidence of Landlord, Lan Xie (LX)

6. LX testified that she and her husband are selling their current home and it was put up for sale on May 25, 2026 due to a decrease in her husband's income. She stated that they need to move to a smaller house that they are able to afford.
7. The Landlord provided documentation from the Landlords' Document Brief setting out how her husband's income dropped on November 1, 2024. She stated that his regular annual income was \$52,000.00 and now he only receives employment insurance of \$22,044.00 and that they have had to withdraw money from their registered investments.
8. LX stated that their financial situation is so desperate that they will accept any reasonable offer for their own house which is currently on the market.
9. The Landlord stated that living in the rental unit will make her commute to work a lot shorter which will be very helpful for her.
10. The Landlord confirmed that the compensation was paid to the Tenant prior to the termination date.
11. In cross-examination, the Landlord was asked how many properties that she owns. She stated that she owns 6 properties, but 2 of them are not in Ontario. When the Landlord was asked why she could not move into the other houses, the Landlord stated that those houses did not meet their requirements.

Evidence of Tenant, Mamdouh Aldaw (MA)

12. MA testified that he, his wife and his children have resided in the townhouse since 2021 and that they are very settled there.

13. The Tenant stated that he has two children including a 9-year-old son who is autistic and a 7-year-old daughter. He stated that his son regularly attends occupational and physical therapy at the Dimensions Centre which is very close to their home. He must bring his son to weekly appointments and sometimes he attends the clinic even more frequently when necessary for his son's health. MA stated that his son's condition requires daily routines and any changes are very difficult for his son to manage. The Tenant provided a copy of his son's regular clinic appointments for the Dimension Centre which formed part of his Tenant evidence.
14. MA stated that as changes to his son's routine cause a significant disruption, he believes that a move would be extremely difficult for his son. He stated that his children are very happy in their school and having to change schools would be very painful for them.
15. The Tenant believes that the Landlords do not require the townhouse due to their financial assets and he believes that they have other options to assist their situation.
16. MA stated that he has looked at other accommodations and he is not able to afford the current housing market.

Analysis and Application of the Law

17. 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.
18. 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.
19. 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.
20. 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 and her husband genuinely intend to move into the rental unit and occupy it for a period of at least one year.
21. 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)]

22. The Tenant did not challenge the Landlord's good faith in this application and the Landlord's evidence was not questioned by the Tenant.
23. On the basis of the evidence before the Board, I have no reason to doubt the truthfulness of the Landlord's testimony or her good faith intentions. I am therefore satisfied on a balance of probabilities that the Landlord served the N12 notice in good faith and she intends to reside in the rental unit for no less than one year.

Discretionary Relief from Eviction

24. 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.
25. According to section 83 of the Act, I am required to consider all the circumstances in the case including both parties' situations to determine if it would be appropriate to invoke section 83 relief.
26. I turned my mind to the circumstances of both the Landlord and the Tenant to determine the outcome of this tenancy.
27. The Landlord provided evidence that her husband's income greatly decreased which caused them to decide to sell their current house and move into the rental unit. Their current house is listed for sale at a price of \$1,128,000.00 and the Landlord confirmed that she and her husband own 6 properties. Despite the decrease in the Landlord's income, the Landlord has multiple other properties that can be sold to assist with their current financial shortfall. The Landlord is clearly in a stronger, financial position than the Tenant and has many other options to address a decrease in one income.
28. The Tenant and his children have been residing in the townhouse for 5 years and both children are settled in their schools. The Tenant spoke about the importance of routine and regular attendances at the clinic for his autistic son and this clinic is close to the Tenant's home.
29. The Tenant is currently paying \$2,261.47 per month for the townhouse and the Tenant testified that he was unable to find another residence that he could afford. More importantly, the Tenant's son requires regular, weekly (if not more) occupational and physical therapy to assist with his autism and the family relies on a clinic which is very close to their home.
30. As stated previously, the Landlord has other options to balance out the husband's decrease in income and in fact, the Landlord could choose to sell further properties to assist with the current financial situation. This might allow the Landlord to remain in their current house. The Divisional Court's decision in *Caputo v. Newberg*, 2009 CANLII 32908 (ON SCDC) allows me to consider the Landlord's options for other places to live as part of my analysis under section 83. The Landlord has options while the Tenant has no options.

31. Having considered the totality of the facts that were disclosed at the hearing, I find that the unfairness to the Tenant of granting the application far outweighs the unfairness to the Landlord of denying the application and the Tenant would experience significant hardship if they were forced to move out of the rental unit. I find that the Tenant's medical, emotional and financial situations require that they be able to remain in the rental unit.
32. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1)(a).
33. The Landlord paid the Tenant compensation equal to one month's rent pursuant to s. 48.1 of the Act. The Tenant shall pay this money back to the Landlord because the application is denied. The Tenant will have until June 26, 2026 to pay this money back.

It is ordered that:

1. The Landlord's application is dismissed.
2. The Tenant shall pay \$2,261.47 to the Landlord no later than June 26, 2026.

June 16, 2026
Date Issued

Carrie Bertrand
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.