



Order under Section 69 Residential Tenancies Act, 2006

Citation: Watkins v Todd, 2026 ONLTB 48675

Date: 2026-06-30

File Number: LTB-L-043294-26

In the matter of: 1 & 2, 107½ FOURTH AVE
OTTAWA ON K1S2L1

Between: Amanda Watkins Landlord

And

Helen Todd Tenant

Amanda Watkins (the 'Landlord') applied for an order to terminate the tenancy and evict Helen Todd (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 remains in the unit after the termination date.

This application was heard by videoconference on June 18, 2026.

Only the Landlord and the Landlord's representative, John Dickie, attended the hearing.

As of 9:23 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There is no record of a request to reschedule the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The issue before the Board is whether the named applicant Landlord can give a notice of termination under s. 48 of the *Residential Tenancies Act, 2006* (the 'Act') given the law about a corporation's ability to serve such a notice (see s. 48(5)).
2. As explained below, the application must be dismissed because the Landlord is barred by s. 48(5) from serving a notice of termination for landlord's own use.

Findings of fact

3. The rental unit is contained in a building where there is a bakery on the first floor in front, and residential units at the back and above. The Landlord is a part owner of a corporation that operates the bakery at the front where she says she works.

4. In January of 2025 another corporation partially owned by the Landlord purchased the residential complex. At that time, the tenancy already existed. The prior landlord who entered into the tenancy agreement with the Tenant in 2008 was also a corporation.
5. After the Landlord's corporation purchased the building, the Tenant initially paid her first rental payment to the bakery. The Landlord corrected her and after that the Tenant paid her rent to the corporation that purchased the building. The Landlord never asked her to do anything else with respect to making rental payments.
6. After receiving legal advice, the Landlord added herself in her personal capacity to the title for the residential complex. She did so because she wanted to serve notice of termination under s. 48 of the Act. She says she always wanted and intended to occupy one of the rental units in the building. That was in or after January of 2026.
7. On March 31, 2026, the Landlord gave the Tenant the N12 notice of termination that is the basis of this application. It has a termination date of June 30, 2026.
8. On April 11, 2026, the corporation that owns the bakery paid the Tenant the compensation required by s. 48.1. The Landlord says this compensation cheque has not been cashed.
9. The Landlord never attempted to negotiate a new tenancy agreement with the Tenant in her personal capacity.
10. Just prior to the hearing before the Board the Tenant spoke with the Landlord's representative. He says she contacted him because she was upset to discover the hearing was scheduled before the Board as she intends to vacate the rental unit on or before June 30, 2026, in accordance with the notice. The representative says he believes she genuinely intends to move out.

Analysis

11. The issue that arises here is the proper interpretation of s. 48(5) of the Act. It says:

This section does not authorize a landlord to give a notice of termination of a tenancy with respect to a rental unit unless,

- (a) the rental unit is owned in whole or in part by an individual; **and**
- (b) the landlord is an individual.

[Emphasis added.]

12. This legal test has two mandatory requirements. First, the landlord filing an application like this one must be filing an application for a building where there is an individual living person on title. Second, the applicant must prove "the landlord" is an individual.
13. There is no question that the Landlord is now an individual who is on title. She therefore meets the first requirement set out above. However, she acknowledges that is a recent development, was done solely for the purpose of being entitled to serve a notice of termination like this one, and the tenancy predates her being added to the title.

14. The question the Board must decide is: what does the phrase “the landlord” mean in paragraph 43(5)(b)?
15. The Landlord takes the position that the definition of “landlord” is found in s. 2(1) and includes “the owner”.
16. Subsection 48(5) was the result of a history of litigation concerning s. 48. The Act as originally written did not bar a corporation from serving notice of termination under s. 48. The Board developed a body of case law interpreting s. 48 to mean that the landlord had to be an individual person because a corporation does not sleep or eat in a rental unit or need it to live in. As one of the purposes of the Act is security of tenure and to protect tenants from wrongful evictions, the Board concluded that the Legislature must not have intended corporations to have the right to serve N12 notices for own use.
17. But the case law also had a branch of cases dealing with the situation where the corporation in question was “closely held”, meaning the corporation was owned by a small number of people actively involved in performing the functions of a landlord. There was a dispute in the case law as to whether such an individual could serve an N12 notice of termination. That issue was resolved by the Court of Appeal in *Slapsys (1406393 Ontario Inc.) v. Abrams*, 2010 ONCA 676. In that case the Court held that a landlord in a closely held corporation involved in delivering services directly to the tenant could give a notice of termination under s. 48.
18. The next thing that happened in the evolution of the law was in reaction to the Divisional Court’s decision in *York Region Condominium Corporation No. 639 v. Lee*, 2013 ONSC 503. In that case the Court ruled that there essentially was no difference between legal persons and living individuals. They were both persons in law. Therefore, the corporate landlord was entitled to evict the tenants so an employee of the corporation could use the unit. Subsection 48(5) was added to the Act in response to this ruling.
19. The Landlord argues that the meaning of s. 48(5)(b) is that the person who is on title under s. 48(5)(b) is also the individual person who intends to move in (or their spouse, parent child etc.) She also argues that the definition of “landlord” in s. 2(1) includes an owner, so the Landlord here meets the definition of landlord in s. 48(5)(b) as words used in one provision are presumed to have the same meaning when used in another provision of the same enactment.
20. But this case is similar to the facts in the Divisional Court’s decision in *Agnew v. Bourgette*, 2026 ONSC 2902 which is binding on the Board. In *Agnew* the facts were that the landlord was a corporation. Two of the corporate owners arranged for the transfer of a 0.5% ownership interest in the property from their corporation to each of them. Less than a week later, the appellants served the respondents with an eviction notice naming themselves as the landlords. The appellants then commenced an application like this one at the Board. The Board dismissed the application and in part relied on s. 202 of the Act. It requires that the Board ascertain the “real substance” of all the related transactions and the good faith of the participants. The Board found that the appellants acted in bad faith. The Board held that the real substance of the transfer of a 1% interest from the corporation to the appellants was to evade the prohibition in s. 48(5) that precludes a corporation from using s. 48 to evict. The Board found that the landlord was still the corporation.

21. The Divisional Court concluded at paragraphs 12 to 13:

[12] The appellants submit that there was no evidence on which to base the decision that they were not landlords, made under s. 202 of the Act. They submit that there was therefore an error of law. On the contrary, there was a factual basis for the Decision under s. 202 that the appellants sought to evade the requirements of s. 48. **Without recounting all the facts, there was evidence that the appellants chose to purchase the multi-use property using a corporation to benefit from the advantages of corporate ownership, that they instructed their accountant to transfer a nominal ownership just days before taking steps to evict and did so to avoid the requirements of s. 48(5), and that the rent payments continued to be made to the corporation.**

[13] The finding that the appellants were not landlords was founded on the facts with no error of law.

[Emphasis added.]

22. That is exactly the same as what happened here. The true landlord of this residential complex is and was a corporation. The Tenant has always paid rent to the corporation. A transfer of some unknown portion of the title was made to the Landlord for the express purpose of circumventing the prohibition on a corporate landlord serving notice of termination for landlord's own use on the tenant. We see no reason to depart from the Divisional Court's decision in *Agnew*. In these circumstances the phrase "the landlord" in s. 48(5)(b) means the corporate landlord that purchased the property and collects her rent.

23. Therefore, we find the Landlord here cannot rely on s. 48 to serve notice of termination on the Tenant because the true landlord for the purposes of s. 48(5) is the corporation.

The compensation

24. After announcing the decision above in the hearing room, we asked for submissions with respect to the compensation cheque delivered to the Tenant but not cashed.

25. Pursuant to s. 73.1(1)

If the landlord compensated the tenant under section **48.1**, 49.1, 52, 54 or 55, as the case may be, in connection with a notice of termination under section 48, 49 or 50 and the Board refuses to grant an application under section 69 for an order terminating the tenancy and evicting the tenant based on the notice, the Board **may** order that the tenant pay back the compensation to the landlord.

[Emphasis added.]

26. The use of the word "may" in this provision means that the Board has the discretion to order the compensation to be repaid or not.

27. The Landlord took the position that if the Tenant moves out, she should be entitled to keep the compensation as the purpose is to defray expenses related to a no-fault eviction that was not the Tenant's choice. But he also took the position that if she does not move out, she should not be permitted to keep it as that would not be consistent with the purpose of the compensation and would constitute a windfall to the Tenant.
28. The problem with this submission is that it is based on a future contingency which is unknowable at this time.
29. It seems to us that the only relevant evidence before us is that the Tenant is more than likely going to move out. The Landlord's representative was quite clear that is what the Tenant said to him, and that he believes her. Given that evidence, and the discretionary nature of the decision, it is our view that it would not be unfair in all of the circumstances to refuse to order the Tenant to return the compensation to the Landlord at this time. So, no such order shall issue.
30. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The Landlord's application is dismissed.

June 30, 2026
Date Issued

Andrew Hyland
Member, Landlord and Tenant Board

Ruth Carey
Vice Chair, 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.