



Order under Section Residential Tenancies Act, 2006

Citation: MacDonald v Burk, 2026 ONLTB 51174

Date: 2026-06-30

File Number: LTB-T-013153-26

In the matter of: 3265 Turnbull Drive
Severn ON L3V0Y4

Between: Sarah MacDonald Tenant

And

Geoffrey Garrett Burk Landlord

Sarah MacDonald (the 'Tenant') applied for an order determining that Geoffrey Garrett Burk (the 'Landlord') gave a notice of termination in bad faith.

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

The Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Tenant did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
2. Subsection 57(1)(a) 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 48 of the Act;
 - the Tenant vacated the rental unit as a result of the N12 notice of termination;
 - No person referred to in subsection 48(1) 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. It is uncontested that the Landlord served the Tenant an N12 notice and the Tenant moved out because of this notice.

4. With respect to whether the N12 was served in bad faith, section 57 of the Act states the following:

(5) For the purposes of an application under clause (1) (a), it is presumed, unless the contrary is proven on a balance of probabilities, that the landlord gave a notice of termination under section 48 in bad faith, if at any time during the period described in section 6 the landlord

(a) advertises the rental unit for rent;

(b) enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant;

5. Based on the uncontradicted evidence before me, I find that the presumption of bad faith under section 57(5) of the Act applies here because the Landlord acknowledged advertising the unit after the Tenant vacated the unit. Therefore, the onus is on the Landlord to provide that the N12 notice of termination was not served in bad faith.

Tenant's Evidence

6. The Tenant testified that the Landlord served the N12 with false pretenses, that he renovated the unit after she moved out and then rented it out as an Airbnb.
7. The Tenant vacated the unit on June 30, 2025.
8. The Tenant testified that she passes the unit all the time and the house remains vacant, the neighbors do not see anyone living there, the snow is not done in the winter and the grass is not cut now.
9. The Tenant submitted ads for the unit to be rented as an Airbnb along with reviews from the people who stayed in the unit through the months of July, August and September 2025.
10. The Tenant also submitted photos of the house as follows:
- December 2025 with the driveway not cleared, February 17, 2026
 - February 17, 2026 no vehicle and light on
 - February 19, 2026 with the same light on
 - March 12, 2026 with the driveway clear but no vehicle
 - April 11, 2026 no vehicle in the driveway and no lights on
11. The Tenant testified that the move was very stressful as she is a single mom with 2 children and a dog, and she is a volunteer firefighter so she must remain within 10 km of the station.
12. The Tenant testified that she moved from an entire home to a basement unit and her children have to share a room.
13. The Tenant is seeking general compensation in the amount of \$28,600.00 and for the Landlord to pay a fine to the Board.

14. The Landlord testified that the N12 notice was not in bad faith because he moved into the unit on July 3, 2025, and still resides in the unit.
15. The Landlord submitted letters from neighbors stating that he moved back into the unit almost a year ago and they help him with his dogs.
16. The Landlord also submitted his tax papers his address being listed as the address of the rental unit.
17. The Landlord testified that he did list the unit as an Airbnb while he was living in it to try to earn some money for repairs. He pointed out in the reviews submitted by the Tenant that there were complaints of his clothes and personal belongings in the unit.
18. The Landlord testified that he lives a busy life and is currently in a custody battle. He testified that he is a on the road salesman, he doesn't come home every night, and his son's school is an hour away.

Analysis

19. The Tenant must prove on a balance of probabilities the 4 elements contained in subsection 57(1)(1) of the Act as outlined above.
20. The first and second elements are uncontested; the parties agree that the Tenant moved out of the rental unit as a result of the N12 notice of termination served by the Landlord under section 48 of the Act.
21. With respect to the issue of whether the Landlord moved into their unit within a reasonable amount of time after the Tenant vacated, I find the Landlord provided straightforward and consistent evidence establishing that he had moved into the rental unit on July 3, 2025.
22. The Tenant also gave straightforward and consistent evidence in respect to the unit being listed as a Airbnb after she vacated. I find this evidence is consistent with the Landlord's evidence that he listed the unit as an Airbnb while he was living in the unit to try to earn extra money.
23. For these reasons, I find on the balance of probabilities that the landlord did occupy the rental unit within a reasonable time after the tenant vacated the unit.
24. Therefore, I find the Landlord has rebutted the presumption that the N12 was served in bad faith and proven on a balance of probabilities that his intent to move into the rental unit was genuine. The Tenant's application must therefore be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

June 30, 2026
Date Issued

Brenda Mercer
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.