



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

**Citation:** Haddad v Solomon, 2023 ONLTB 28119

**Date:** 2023-04-03

**File Number:** LTB-L-041612-22

**In the matter of:** 700 GUARDIAN GROVE OTTAWA  
ON K1X0B3

**Between:** Randy Haddad Landlord

**And**

Jean-Marc Solomon Tenant

Randy Haddad (the 'Landlord') applied for an order to terminate the tenancy and evict Jean-Marc Solomon (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 March 20, 2023.

Only the Landlord attended the hearing.

As of 9:20 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**Determinations:**

1. On July 13, 2022 the Landlord gave the Tenant an N12 notice of termination for the Landlord's parents own use. The date of termination on the N12 notice of termination was

indicated to be October 14, 2022. The Landlord testified that the tenancy commenced on the 15<sup>th</sup> of the month.

2. The Landlord met the requirements under section 72(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') by filing with the Board a declaration signed by the mother of the Landlord, May Haddad, who personally requires the rental unit certifying that she in good faith requires the rental unit for her and her husband's own personal use for a period of at least one year. For the following reasons, I find that the Landlord's application should be granted.
3. The Landlord's uncontested evidence was that the rental unit is smaller in size, being approximately 1,700 square feet and his parents are going to be selling their current home which is much larger and downsizing to the townhome rental unit. The Landlord's parents home is approximately 4,0000 square feet on one acre of land and it's just becoming too much for his parents to maintain.
4. The Landlord presented his testimony in a consistent manner and I have no reason to disbelieve his testimony. I find his testimony to be credible.
5. The courts have provided much guidance to the Board in interpreting the "good faith" and "genuine intent" requirement in the context of a landlord seeking possession of a rental unit for the purpose of residential occupation by the landlord.
6. In *Feeny v. Noble*, 1994 CanLII 10538 (ON SC), 19 O.R. (3d) 762, the Ontario Divisional Court considered this issue in the context of subsection 103(1) under the Landlord and Tenant Act, R.S.O. 1990, c. L.7, and held that:

"...the test of good faith is a genuine intention to occupy the premises and not the reasonableness of the landlord's proposal".

7. In *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC) the Divisional Court stated at paras 18, 26-27:

In my view, s.51(1) [now RTA s.48(1)] charges the finder of fact with the task of determining whether the landlord's professed intent to want to reclaim the unit for a family member is genuine, that is, the notice to terminate the tenancy is made in good faith. The alternative finding of fact would be that the landlord does not have a genuine intent to reclaim the unit for the purpose of residential occupation by a family member.

While it is relevant to the good faith of the landlord's stated intention to determine the likelihood that the intended family member will move into the unit, the Tribunal stops short of entering into an analysis of the landlord's various options.

Once the landlord is acting in good faith, then necessarily from the landlord's subjective perspective the landlord requires the unit for the purpose of residential occupation by a family member. That is sufficient to meet the s.51(1) standard. The fact that the landlord might choose the particular unit to occupy for economic reasons does not result in failing to meet the s.51(1) standard.

8. More recently, in *Fava v. Harrison*, 2014 ONSC 3352 (CanLII) the Divisional Court, in considering this issue in the context of the Act, found as follows:

“We accept, as reflected in *Salter*, supra, that the motives of the landlord in seeking possession of the property are largely irrelevant and that the only issue is whether the landlord has a genuine intent to reside in the property. However, that does not mean that the Board cannot consider the conduct and the motives of the landlord in order to draw inferences as to whether the landlord desires, in good faith, to occupy the property.”

9. Based on the uncontested evidence before me, and on a balance of probabilities, I find that the Landlord has a genuine intent to occupy the property for the purpose of residential occupation by his parents for at least one year.
10. Section 48.1 of the *Residential Tenancies Act*, 2006 (the ‘Act’) requires a landlord to compensate a tenant in an amount equal to one month’s rent if the landlord, in good faith, requires the rental unit for the purpose of residential occupation. Section 55.1 of the Act requires this compensation to be provided no later than on the termination date specified in the notice of termination of the tenancy given by the landlord.
11. At the hearing, the Landlord testified that he e-transferred one month’s rent as compensation in the amount of \$2,200.00 to the Tenant on October 12, 2022 and received confirmation that the Tenant had received the e-transfer. A screenshot of this e-transfer was tendered into evidence at the hearing.
12. I am satisfied that the Landlord did provide the Tenant with compensation in the amount of one month’s rent as required for the N12 notice of termination and that the Landlord has satisfied the requirements as set out in section 48.1 of the Act.
13. As I am satisfied that the Landlord’s parents genuinely intend to reside in the rental unit, the next issue before me is whether it would be unfair in all the circumstances to deny the Landlord’s application for eviction. For the following reasons, I find that it would be unfair to deny the Landlord’s application for eviction.
14. The Landlord’s parents are elderly. As the Tenant was not present at the hearing, the Landlord testified that he believed the Tenant resided primarily alone but has seen older, perhaps high school aged children occasionally at the rental unit. The Landlord submitted that although he has attempted communication with the Tenant, the Tenant rarely answers the Landlord.

15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 30, 2023.
2. If the unit is not vacated on or before April 30, 2023, then starting May 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after May 1, 2023.

**April 3, 2023**

**Date Issued**

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Heather Chapple  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,  
Toronto ON M7A 2G6

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

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on November 1, 2023 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.

