



**Order under Section 9(2)
Residential Tenancies Act, 2006**

File Number: LTB-L-020016-25

In the matter of: 52483 Century Line
Springfield Ontario N0L2J0

Between: Alois Buehlmann Landlord

And

TMP Haulage (2713612 Ontario Inc) Tenant

Alois Buehlmann (the 'Landlord') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies.

This application was heard by videoconference on August 25, 2025.

The Landlord, the Landlord's Legal Representative Kyle Cronk and the Tenant, Constance Camilleri and Edward Empey attended the hearing.

Determinations:

1. Based on the evidence before me, I am satisfied on a balance of probabilities that section 5(j) the Act does not apply to the rental unit or residential complex.

Landlord's Evidence

2. The Landlord Mr. Buehlmann testified that the property is an agriculturally zoned consisting of a large shop building, approximately 32 feet by 104 feet, yard space for heavy equipment, manure handling areas, and a former residential house.
3. He stated that the Tenants conduct agricultural and related business operation from the premises, including the operation, storage, and maintenance of farm and commercial vehicles and equipment. The Tenants did not dispute this evidence.
4. The Landlord stated that vehicles being operated from the premises require CVOR registration, and the property is used to store and service tractor-trailer and heavy machinery. The shop and yard are the functional core of the tenancy and are on a continuous basis.
5. He testified that utilities are centralized and not separated between the alleged residential and business uses.

6. The house on the property is no longer occupied by the Tenants and has not been used as a residence since 2024. The Tenant did not dispute this evidence, not confirmed they no longer reside at the property.
7. Lastly, the Landlord submits that the predominant and ongoing purpose of the tenancy is agricultural and business-related, any residential was secondary and incidental.

Tenant's Evidence

8. The Tenant Edward Empey testified that he has occupied the premises since 2002, under a single lease agreement that included the house, shop, and surrounding lands.
9. The house located on the property was used as a family residence for many years. Various family members resided there at different times and the house was used for ordinary residential purposes. The house ceased to be occupied in or about late 2024, but this did not change the lease terms or rent payable to the Landlord.
10. Mr. Empey affirmed that the nature of his operations includes a family agricultural operation, including manure hauling and spreading as part of farming activity rather than a general commercial trucking business. He testified that the property is agriculturally zoned and that certain activities were limited following discussion with Municipal Officials.
11. He stated that the shop was primarily used to repair and maintain his own equipment. Additionally, the Tenant characterized the shop as supportive of farming activity rather than a commercial repair facility. He acknowledged that he holds CVOR registration, but such registration is required for farm vehicles over certain weights and is common within agricultural operations.
12. Lastly, Mr. Empey stated that the long history of residential use should support a finding that the tenancy is residential or mixed use and therefore should be subject to the *Residential Tenancies Act*.
13. Ms. Carrie Wilding testified that she resided in the house until 2024, that it was her primary residence where she raised her children, and that she vacated the premises following direction related to the landlord's wishes.

Analysis

14. The *Residential Tenancies Act* applies to premises rented for residential purposes, subject to statutory exclusions.
15. I turn to section 5(j) of the RTA, and it states:

Exemptions from Act

- 5 This Act does not apply with respect to,
 - (j) premises occupied for business or agricultural purposes with living accommodation attached if the occupancy for both purposes is under a single lease and the same person occupies the premises and the living accommodation.

16. The Divisional Court has consistently held that the Board must determine the true nature and predominant purpose of a tenancy based on the actual use of the premises, not solely on the presence of a dwelling or length of occupancy.
17. In *Toronto Community Housing v. Bryant Didier*, 2018 ONSC 5158 (CanLII), <https://canlii.ca/t/htrgk>, the Court confirmed that the Landlord and Tenant Board had no jurisdiction because the unit was used “predominantly” not exclusively, for commercial purposes.
18. The predominant purpose test as established in the case of *Hahn v. Kramer* [1979 CanLII 2111 \(ON SC\)](#) (*‘Hahn’*) applies to this case. In *Hahn* the Court held as follows:

The exemption clause specifies that the premises be occupied for business purposes with living accommodation attached. To me, the wording of the section seems to indicate that the business purposes should predominate. The Act appears to specifically and carefully proceed in a manner which emphasizes the business use to be made of the combined premises so as to take them outside the definition of residential purposes.

19. The test in *Hahn* makes it clear that for the tenancy to fall outside of the parameters of the Act, the business purpose of the premise must be the primary or predominant use of the space. Therefore, in weighing the two uses of the space, the commercial use of the space would outweigh the residential use.
20. Applying the jurisprudence to this case, I find that the predominant purpose of this tenancy is agricultural and business-related. The evidence demonstrates that the shop, yard, and associated facilities are integral to the Tenant’s operations and have been continuously used for the storage, maintenance, and servicing of heavy equipment and vehicles. These activities are not incidental or occasional; rather, they form the core of the tenancy and define its character. The presence of CVOR-registered vehicles, the centralized utilities serving the shop and yard, and the scale of the equipment involved further support the conclusion that the property functions primarily as an agricultural and business hub. While the house was historically used for residential purposes, that use ceased in 2024 and has not resumed. The Tenants’ reliance on past residential occupancy does not outweigh the ongoing and dominant business use of the premises. The jurisprudence, including *Hahn v. Kramer* and *Toronto Community Housing v. Bryant Didier*, emphasizes that the Board must assess the actual and current use of the property rather than historical patterns. In this case, the agricultural and business operations are substantial, continuous, and essential to the tenancy, whereas any residential component is secondary, incidental, and no longer operative. Therefore, I find that the tenancy falls squarely within the exemption under section 5(j) of the *Residential Tenancies Act*.
21. For all the reasons given above, the Landlord has met the onus of establishing that the tenancy is excluded under section 5(j) of the ‘Act’.

It is ordered that:

1. Section 5(j) The *Residential Tenancies Act*, 2006 does not apply.

January 7, 2026
Date Issued

Anthony Bruno
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.