



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

File Number: LTB-T-086623-24

In the matter of: 3rd Floor Attic, 842 King Street West
Toronto Ontario M5V1P1

Between: Sayna Jalalzadeh Tenant

And

15172314 Canada Inc. / Upeksha Yoga Landlord

Sayna Jalalzadeh ('SJ' or the 'Tenant') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'RTA') applies. (A1 application)

This A1 application was heard by videoconference on December 9, 2025.

The Tenant and the Landlord's Agent, Heremia Manito ('LLA1' who identified herself as the sole owner of the Landlord), attended the hearing. John Roorda ('LLA-O'Born' property manager for O'Born Inc.) was also in attendance and after disposing the preliminary matter that was raised by him, remained in the hearing as an observer. Hannah Stanley ('Wit') was also available to be a witness for the Tenant, but she was never called forward to testify.

As a preliminary matter, the style of cause required some correction to set out the parties and rental unit address accurately.

LLA-O'Born requested the owner of the rental unit building, O'Born Inc., be removed from the style of cause because the Tenant had (and has) no relationship to O'Born Inc. Both SJ and LLA1 agreed that O'Born Inc. should not be listed as a party to this A1 application.

It was also clear that LLA1 acts on behalf of 15172314 Canada Inc. d.b.a. Upeksha Yoga and that it was 15172314 Canada Inc. / Upeksha Yoga that entered into a sub-tenancy agreement for the rental unit with the Tenant. Rents were paid by the Tenant to the company, not LLA1. Consequently, LLA1 is removed from being named a landlord and is replaced with the correct landlord, 15172314 Canada Inc. / Upeksha Yoga.

As well, the Tenant had filed a separate Schedule of Parties after filing the A1 application, naming Wit and Christina Ajodhia as co-tenants to the rental unit. It was made clear to me that Wit had been another tenant under a separate tenancy agreement and that Christina Ajodhia ('LLA2') was and is another agent for the Landlord. It is noted the Tenant filed/signed the A1 application in respect of her rental unit tenancy singly. As a result, both co-tenant names are removed from the list of tenants in this application.

Finally, the parties in their respective submissions confirmed the tenancy at bar was for a room located in the attic of the building, with the Tenant being granted permission to use certain other parts of the rental unit building. Before me, the parties agreed the address should be amended to identify the rental unit in the building more accurately as “3rd floor attic”.

The title of proceedings above reflects the foregoing corrections.

Determinations:

1. Before me, the parties agreed the Landlord is in fact the main tenant of the rental unit building, with its landlord being O’Born Inc. They also agreed the parties to this A1 application entered into a subtenancy agreement between them for the rental unit. They both agreed that O’Born Inc. had given permission to the Landlord to sublet to the Tenant.
2. The parties also confirmed that they had no relationship other than landlord-tenant in this tenancy. More specifically, the Tenant did not and does not have any ownership interest in the Landlord or in the rental unit building, and was not/is not an employee of the Landlord or O’Born Inc..
3. Copies of both lease agreements were entered into evidence, namely, exhibit TT#1 (copy of signed, six-month term lease between the Tenant and the Landlord, starting August 1, 2024) and exhibit LL#1 (redacted copy of signed lease between the Landlord and O’Born Inc.).
4. The parties also agreed that under the tenancy, the Tenant lived in the attic room but had shared access with one or two other persons, one of whom was Wit, to the second floor bathroom and kitchen. I note that the Tenant stated she had access to the laundry room on the first floor, but this was not confirmed one way or the other by LLA1 during the hearing. It was made clear to me that LLA1 did not share the second floor with the Tenant, Wit and whomever the third occupant might have been. The parties confirmed that the first floor comprised: a yoga studio, a kitchenette (not a full kitchen) a bathroom (with shower) and a laundry room.
5. The following is a summary of the submissions made by the parties.
6. The Tenant’s claim is the rental unit tenancy was a residential tenancy falling under the jurisdiction of the *Residential Tenancies Act, 2006* (the ‘RTA’). LLA1 contested this stating the rental unit tenancy was a commercial tenancy, thus falling outside the jurisdiction of the RTA.
7. SJ testified she paid a first month’s rent along with a last month’s rent deposit and she understood that she was entering into a subtenancy arrangement with the Landlord.
8. SJ led exhibit TT#2 into evidence, which is a copy of a July 17, 2023 email from a representative for Oborn Inc. to the Landlord’s two agents (LLA1 and LLA2), which indicated at that time that “As for your [the Landlord’s] tenants, you are free to do what you want, but they need to understand that the commercial lease between you and [O’Born Inc] is the master lease”.

9. With regard to TT#2, SJ confirmed she was therefore aware that a lease agreement between O'Born Inc. and the Landlord existed, but that she stated she was not given a copy of that lease when she was given TT#1 to sign. SJ emphasized that she had all along wanted a residential tenancy and if it had been made clear to her that the tenancy was a commercial one, she would never have entered into the tenancy agreement. SJ testified that she was shown a copy of LL#1 at the end of August 2024, but that did not change her understanding that she had signed a residential lease.
10. SJ testified that after she paid first and last months' rents, she paid \$1,700.00 (the rent) to the Landlord for September 2024 and October 2024. She testified that on October 9, 2024, she received a two-weeks' notice to terminate the tenancy from the Landlord, and further, that on October 30, 2024, she was locked out of the rental unit by the Landlord. SJ stated that the last month's rent (\$1,700.00) was never returned to her because of some alleged damage or repair the Landlord claimed had to be undertaken.
11. On behalf of the Landlord, LLA1 stated she operates a yoga studio in a leased building and the building has both commercial (first floor) and residential (second floor) spaces. LLA1 testified the Tenant most likely assumed the tenancy was governed by the RTA, but she clearly told the Tenant that the tenancy was a commercial one, and told the Tenant that the RTA would not govern the tenancy.
12. LLA1 confirmed that its landlord, O'Born Inc., had provided formal consent for the Landlord to rent out certain parts of the building to live-in residents.
13. LLA1 stated that whatever the Tenant may argue or position, LLA1 believed that the tenancy at bar was/is exempt from the RTA because the rental unit did not have its own self-contained bathroom and kitchen facilities and the Landlord was arguably a licensee. She referred to sub-section 5(g) of the RTA in support of her stated belief.
14. LLA1 also led exhibit LL#2 into evidence, which consists of two colour photos of the shared kitchen and bathroom on the second floor, and a floor layout schematic of the building that shows the areas forming the Tenant's tenancy. I note that the schematic was taken from a schedule in LL#1 and someone drew upon the schematic to outline the rental unit under this application.
15. LLA1 made a final submission that the Landlord was transparent all along with the Tenant about the commercial nature of the tenancy agreement.

Analysis

16. Based on the submissions of both parties, and based on a balance of probabilities, I find the tenancy between the Landlord and Tenant was a residential one, one that fell/falls under the jurisdiction of the RTA.
17. While I note that LLA1 testified she or the Landlord had clearly informed the Tenant from the outset that the tenancy agreement signed was a commercial lease, the Tenant testified that she was not shown a copy of the "master lease" until late August 2024, and even then was not given anything to show her that she was not living under a residential lease. TT#1

as submitted is without any “master lease” attachment, and LL#1 is silent on the possibility of residential tenancies, but is quite specific about “Permitted Use”. I can draw no conclusions based on this information and must look to TT#1, TT#2, LL#1 and LL#2 to make findings of fact.

18. Having regard first to the commercial lease between O’Born Inc. and the Landlord (LL#1), it is clear that that lease is a commercial lease.
19. I note that the term “Permitted Use of the Premises” in s.s. 1(l) of LL#1 defines the Landlord’s permitted scope of use – i.e. a yoga studio with wellness treatment services and includes the right to serve/sell light snacks to its clients/customers.
20. I also note in s.4 and in s.31 of LL#1 that no part of the leased premises may be used by the Landlord for any other purpose other than the “Permitted Use”.
21. There was no “subletting” section of LL#1 and this was likely because the section(s) dealing with assignment and subletting were redacted from the copy led into evidence by LLA1. I can only surmise but not find that in respect of any sublessee consented to by O’Born Inc., the sublessee would most likely be permitted to occupy the premises under the same “Permitted Use” restriction.
22. I note that the Landlord allowed the rental unit (i.e. 3rd floor attic) to be rented out as a residence to the Tenant even though it is clear from LL#1 that a residential tenancy falls outside “Permitted Use”. This to me appears anomalous on its face, but I accept LLA1’s submission that the Landlord nonetheless had secured proper consent from O’Born Inc. After all, TT#2, which was an email written one year before the rental unit tenancy came to be, does suggest that O’Born Inc. was agreeable to let the Landlord “*do what you [the Landlord] want*” so long as sublessee tenants were made to understand they were subject to what was termed a “master lease”.
23. When I look at TT#1, I note immediately that the agreement is entitled “*Residential Sublease*”. The word “commercial” is absent there and it is not found anywhere in the document.
24. I note that a “master lease” is immediately identified in the preamble, stating that the sublease would be subject to the terms and restrictions of the master lease. Under s.31 of TT#1, the master lease is again mentioned and that section states a copy of the master lease was attached to TT#1, but again, the document that was proffered into evidence did not contain any attachment.
25. Apart from those two mentions, nothing else of any substance is set out in TT#1 to flag to the Tenant what “terms and restrictions” appearing in the master lease would actually affect, or apply to, the tenancy between the parties so that the rental unit tenancy could be understood to be a commercial arrangement.
26. Going further, I then note that s.1 of TT#1 defines the tenancy as follows:

"The [Landlord] agrees to sublease to the [Tenant] all of the Premises (the "Subleased Premises"), for use as a residential Subleased Premises only. The subleased premise that is agreed upon is the room with a square footage of 511. Neither the Subleased Premises nor any part of the Subleased Premises will be used at any time during the Term of this Sublease Agreement by the [Tenant] for the purpose of carrying on any business, profession, or trade of any kind, or for the purpose other than as a private single-family residence".

27. This reads very much to me that the tenancy between the Landlord and Tenant was a residential tenancy, not a commercial tenancy.
28. I note that TT#1 makes mention of the "Act" in various places but at no place does "Act" have a definition. The absence of any definition in my view renders the word "Act" meaningless. If at all, I can only surmise that the "Act" in TT#1 was taken from the same referenced word "Act" in LL#1. Specifically, s.106 "Severability" of LL#1 is the only place that "Act" appears defined – and it is defined here as any applicable legislation of the Province of Ontario, leaving "Act" open to whatever the legal question/dispute might be at hand.
29. While TT#1 is not in the Ontario standard form of lease, and while it contains some terms that are unusual (such as a requirement for bi-weekly meetings), it nonetheless reads as a residential lease, and nowhere in the lease does the word "commercial" appear to suggest to any reader that the document should be construed a commercial lease.
30. TT#1 sets out *inter alia* the residential premises, who was renting to whom, the nature of the tenancy (residential or private single-family residence), the initial term of lease, the monthly rent and when it was due, and to whom the rent was to be paid. In my reading of TT#1, both parties respectively meet the definitions of "tenant" (the Landlord in this case) and "subtenant" (the Tenant in this case) of section 97 of the RTA. And I note that "tenant", "subtenant" and "landlord" (i.e. O'Born Inc.) are all defined terms in section 2 of the RTA.
31. In any residential subtenancy, the tenant who rents to a subtenant becomes effectively the landlord to the subtenant and the RTA applies to their relationship in this way. I find that this was exactly the case for this rental unit tenancy – with reference to section 97 of the RTA, the Landlord who is a tenant to O'Born Inc, became the residential landlord to the subtenant, the Tenant.
32. The Landlord's submission that the tenancy falls into the exemption of subsection 5(g) of the RTA is incorrect. Subsection 5(g) of the RTA concerns living accommodations only for educational institutions and their students or staff. It is clear the Landlord is not an educational institution and the Tenant was/is not its student of staff.
33. I note that LLA1 made mention that the Landlord is a "licensee" of O'Born Inc. but that does not have any place or bearing on the claim of exemption under section 5 of the RTA.

It is ordered that:

1. The *Residential Tenancies Act, 2006* applies.

January 20, 2026

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Alex Brkic

Member, Landlord and Tenant Board

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