



Order under Section 69 Residential Tenancies Act, 2006

Citation: Pathmanathan v Danna Home Care Inc, 2026 ONLTB 11837

Date: 2026-02-09

File Number: LTB-L-014572-25

In the matter of: 66 MERKLEY SQ
SCARBOROUGH ON M1G2Y7

Between: Jey Pathmanathan Landlord

And

Danna Home Care Inc Tenant

Jey Pathmanathan (the 'Landlord') applied for an order to terminate the tenancy and evict Danna Home Care Inc (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 15, 2025.

The Landlord, the Landlord's Representative, Joey Kay, and Owen Sivanan ("OS"), attended the hearing.

Determinations:

1. The matter was adjourned for written submissions on two issues:
 - a) Whether the LTB has jurisdiction as OS was claiming there this was not a residential tenancy; and
 - b) Validity of the N4 Notice.

Board's Jurisdiction

2. OS testified that he was originally a partner of Danna Home Care Inc and the original lease was between Danna Home Care Inc and the Landlord. OS testified that the subsequent lease was signed by him personally and the Landlord. OS submitted the purpose of the rental unit was to be used as a care home by Danna Home Care. OS submitted that although the lease signed said "residential lease" it should have been a commercial lease, but the Landlord wanted to avoid paying the commercial city taxes and associated costs of commercial leases.

3. OS provided that the kitchen was removed and renovated to add extra rooms for home care clients. OS also submitted with his written submissions an email requesting an 8% increase as well as HST and GST. OS submitted that he does not live at the rental unit and has not been there since August 2024.
4. The Landlord submits this is a residential tenancy because the rental unit is a primary residence with a kitchen, bedrooms, and bathrooms, and the lease is a residential lease. The Landlord provided emails with their written submissions in which the OS refers to the *Residential Tenancies Act*, 2006 (the 'Act') when making complaints about the rental unit.
5. The Landlord also provided a statement from Adele with the written submission regarding how the parties treated the rental unit. Adelgis Lugar ("AL"), is the other partner of Dana Home Care, and in her letter provided with the Landlord's written submission she confirms the purpose of the rental unit was to establish a group home to provide care and support to individuals in need. AL's letter provides that clients occupied rooms, and she resided at the rental unit to ensure staffing until December 2023.
6. First, I turn to section 202(1) of the Act, which provides that in making findings the LTB shall ascertain the real substance of all transactions and activities relating to a rental unit and the good faith of the participants and in doing so may disregard the outward form of a transaction.
7. The real issue that arises here is: does the Act apply to a tenancy agreement where the Landlord rents a residential unit to a person for the residential use of a third party, where the third party is the one who actually lives in the rental unit? That issue has arisen before the LTB on at least two occasions: 1) a unique panel decision of the LTB that was designed and intended to resolve conflicting case law and be a leading case on this issue.
8. That decision is *TSL-50630-14-RV2* (Re), 2015 CanLII 13940 ("Panel Decision"), and 2) *Tremblay v. Ogunfeibo*, 2019 ONSC 7423 ('Tremblay').
9. *TSL-50630-14-RV2* (Re) was heard by a three Member panel of the Board. To summarize, the panel concluded that the LTB has no jurisdiction over a residential tenancy agreement between two commercial entities in the circumstances that existed in that case. Rather, the tenancy agreement that was in place between them was found to be a commercial one.
10. The facts in *TSL-50630-14-RV2* (Re) involve a large corporate landlord (HPA) who rented multiple residential units to a non-profit (HCH) to provide a range of services, including housing to its clients. In that case HCH had re-rented the rental unit to an individual (IM). The tenancy was the subject of multiple applications to the LTB.
11. The panel relied on the purpose clause of the Act set out in section 1 (at paragraph 21). It says:

The purposes of this Act are to provide protection for residential tenants from unlawful rent increases and unlawful evictions, to establish a framework for the regulation of residential rents, to balance the rights and responsibilities of residential landlords and tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes.

12. At paragraph 22, it also relied on case law with respect to the tenant protection focus of the Act, determining that was the starting point for their analysis of whether the Act should apply to a tenancy agreement entered into between two corporations, with the purpose of re-renting:

The “tenant protection” focus of the RTA is well established, and has been affirmed by numerous Board decisions and the Courts: *Matthews v. Algoma Timberlakes Corp.*, 2010 ONCA 468 (QL), 102 O.R. (3d) 590; *Metropolitan Toronto Housing Authority v. Godwin*, 2002 CanLII 41961 (ON CA), [2002] O.J. No. 2514 (ONCA) (QL), 2002 CanLII 41961 (ON CA), 161 O.A.C. 57; *Price v. Turnbull's Grove Inc.*, 2007 ONCA 408 (CanLII), *MacDonald v. Richard*, 2015 CanLII 34322 (ON LTB), 2008 Carswell Ont 638 (Ont. Div. Ct.).

13. With that focus in mind, and after canvassing the interests of each of the parties, as well as considering the submissions of a number of intervenors, the Board panel concluded that the individual living in the rental unit (IM) was the tenant under the Act, and the two corporate entities involved were both landlords with respect to the tenancy. It states (at paragraph 26):

Viewing the relationship between the parties as anything other than a single tenancy as between IM as Tenant and HPA and HCH as Co-Landlords creates a circumstance which undermines, or has the potential of undermining, fundamental rights and responsibilities established by the RTA. That does not, in our view, accord with the true reality of the relationship.

14. The panel then concluded that the LTB had no jurisdiction to deal with disputes between the head landlord and the corporate re-renting charity. At paragraph 39, the LTB states:

For the reasons set out above, we find there is a single residential tenancy in respect of the rental unit occupied by IM. IM is the sole Tenant, and HPA and HCH are Co-Landlords. **The agreement between HPA and HCH is therefore not a residential tenancy agreement governed by the RTA. We make no determination as to how that agreement should be characterized or enforced, as that question is not within our jurisdiction.** This is not to say that their agreement, and the relationship between the HPA and HCH is not a matter the Board may be required to consider in the context of an application under the RTA respecting this tenancy, but only, having decided it is not a residential tenancy agreement governed by the RTA, we are not required to provide additional comment.

[Emphasis added.]

15. In Tremblay, the Divisional Court found that the LTB erred in determining that the RTA applies to the parties’ relationship due to a subtenancy. However, the Court went on to find that the parties were in a landlord-tenant relationship covered by the RTA.
16. At paragraphs 36 and 37, the Court held:

The relationship between Ms. T and Mr. O falls squarely within the words of the statute. She is a landlord because she is a “person who permits occupancy of a rental unit”. She is not permitting Mr. O to occupy her unit with her, so the exemption in the definition of “landlord” in paragraph (a) of the definition does not apply.

Similarly, Mr. O is “a person who pays rent in return for the right to occupy a rental unit.” He pays that rent directly to Ms. Tremblay and he gave evidence that he believed she was the landlord. So, he fits the definition of “tenant”.

17. The Court found that the RTA applies because Ms. Tremblay and Mr. Ogunfeibo were in a landlord-tenant relationship. She is a landlord because she is a “person who permits occupancy of a rental unit”. She is not permitting Mr. Ogunfeibo to occupy her unit with her, so the exemption in the definition of “landlord” in paragraph (a) does not apply. Mr. Ogunfeibo is “a person who pays rent in return for the right to occupy a rental unit.” He pays that rent directly to Ms. Tremblay and he believed she was the landlord. So, he fits the definition of “tenant”. The Court concluded that finding that the RTA applies to the relationship between Ms. Tremblay and Mr. Ogunfeibo as landlord and tenant is consistent with the wording of the Act and its remedial purpose.
18. Therefore, the question for the LTB is whether the reasoning applied in *TSL-50630-14RV2* (Re) and Tremblay applies to the circumstances here.
19. Here, I am not satisfied that OS resides in the rental unit. It is OS’s evidence that he does not reside in the rental unit and has not attended the unit since August 2024. AL’s letter appears to indicate that the care clients occupied the rental unit and that she lived there for staffing purposes but vacated at OS’s insistence. AL’s letter indicates that the property was left unoccupied after she vacated. This supports OS’s position that Danna Home Care was not the intended occupant but that the clients were.
20. Furthermore, in the emails provided by the Landlord, there is discussion about putting the kitchen back on the main floor which supports the fact it was removed to make room for care clients, supporting OS’s testimony. Furthermore, AL’s letter indicates a care home was being run from the rental unit.
21. Having considered section 202 of the Act, I find that pattern of activity supports OS was operating a care home akin to the social housing provider in the Panel Decision and Ms. Tremblay. Therefore, OS and Danna Home Care Inc are not a “tenant” under this Act, they are a co-landlord.
22. I can see no reason to depart from the reasoning of the LTB in *TSL-50630-14-RV2* (Re) or Tremblay. Therefore, OS or Danna Home Care Inc’s relationship with the Landlord is not covered by the Act because they are not a residential tenant of the unit but rather, they are co-landlords in a dispute regarding that relationship and settlements that are outside of the LTB processes.
23. As I am satisfied the Act does not apply to the relationship between the Landlord and OS and the Tenant, the Landlord’s application must be dismissed for lack of jurisdiction.

24. Since the LTB does not have jurisdiction, I do not need to address the validity of the N4 notice of termination.

It is ordered that:

1. The Landlord's application is dismissed.

February 9, 2026
Date Issued

Nicole Pedron
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