



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

Citation: Iyer v Gutierrez, 2026 ONLTB 26278

Date: 2026-04-01

File Number: LTB-T-034735-25

In the matter of: DPH6-2, 201-352 MAPLE AVENUE
KITCHENER ON N2L 3R2

Between: Arjun Iyer Tenant

and

Silvia Gutierrez
Schembry Property Management Landlords

Arjun Iyer (the 'Tenant') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies.

This application was heard by videoconference on March 25, 2026.

The Tenant's support person Krishnan Iyer, the Tenant's legal representative Harpreet Luthra and the Landlords' legal representative Elizabeth Anani attended the hearing.

Determinations:

1. The Tenant applied for a declaration that the *Residential Tenancies Act, 2006* (the 'Act') does not apply to this tenancy. The Tenant led no evidence, nor made any submissions, to show that this residential tenancy is exempted from the operation of Act except to argue that because the Board can terminate tenancies by authority of subsection 30(1) of the Act, it follows that the tenancy should have been terminated and therefore not subject to the legislation. When I announced my decision that the Tenant has failed to show on a balance of probabilities that the Act does not apply to this tenancy, the Tenant elected to withdraw his application and the Board consented to the request.
2. Guided by Board's Interpretation Guideline 3 *Costs* dated December 15, 2018—which is not binding but I accept as the correct approach to the discretion contained in subsection 204(2)—I agree with the Landlords that this application was nothing but a collateral attack on an application that is pending before the Board under file number LTB-L-006898-24 and an abuse of process. If the Tenant wished to genuinely contest the Board's jurisdiction to resolve disputes in this tenancy, he ought to have done so as a preliminary matter in those proceedings and not bring a separate application that is manifestly devoid of merit.
3. The Tenant will be ordered to pay the Landlords \$150.00 in costs representing one hour of hearing time and 30 minutes of preparation time thrown away.

It is ordered that:

1. The Tenant shall pay the Landlord \$150.00 by April 12, 2026.
2. If the Tenant does not pay the Landlords the full amount owing on or before April 12, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 13, 2026 at 4.00% annually on the balance outstanding.
3. The application is withdrawn.

April 1, 2026
Date Issued

Nersi Makki
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.