



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

Citation: Simeunovich v Irvine, 2026 ONLTB 27564

Date: 2026-04-08

File Number: LTB-L-017416-26

In the matter of: Upper, 18 Carew Blvd
Lindsay On K9V0P6

Between: Boro Simeunovich Landlords
Adam Simeunovich

And

Ernie Irvine Tenants
Karen Howie
Stacey Steiner

Boro Simeunovich and Adam Simeunovich (the 'Landlord') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies.

This application was heard by videoconference on March 30, 2026.

Both Landlords and all the Tenants attended the hearing. However, Ernie Irvine left the hearing before the matter was called. Karen Howie indicated that she was speaking for him.

Determinations:

1. Based on the evidence before me, I am satisfied on a balance of probabilities that the Act applies. Ernie Irvine, Karen Howie, and Stacey Steiner all jointly rent the upstairs unit at 18 Carew Blvd, in Lindsay Ontario ('the residential complex'). The monthly rent is \$2,800.00.
2. The Landlord Boro Simeunovich ('B.S') testified that the rental complex is a single-family bungalow. It has an upstairs unit and a downstairs unit. The downstairs unit is currently under construction. There is no written lease agreement between the parties, but the testimony of all the parties supports that there was some kind of agreement between them that the Tenants would live in the upstairs portion of the house and pay rent. The Landlord Adam Simeunovich ('A.S') testified that the parties agreed that the Tenants would pay \$2,800.00 in rent, that they paid for the first couple of months, but have since stopped paying.
3. The Landlords submit that the Act does not apply because of the exemption found in section 5(i) of the Act. That section says that the Act does not apply to living

accommodation whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent or the spouse's child or parent, and where the owner, spouse, child or parent lives in the building in which the living accommodation is located. For the following reasons I'm not satisfied that exemption applies.

4. The Landlord B.S testified that he will often stay in the unfinished basement. However, later in the hearing he said that the basement unit is the only place he lives. B.S testified that there is no kitchen in the basement, but he has a microwave and bar fridge. B.S testified that while working at the residential complex he was initially using the kitchen upstairs until the Tenant Karen Howie ('K.H') objected. B.S testified that he has not used the upstairs kitchen since the Tenants' stole his food in December 2025. B.S testified that the basement unit has plumbing but no bathroom has been put in yet. B.S testified that he has been going to Tim Hortons to use the bathroom. The Landlords submit that the only reason that B.S is not using the upstairs facilities anymore is because of safety concerns with the Tenants and that the Landlord should not be faulted for no longer using the upstairs facilities.
5. K.H testified that her understanding at the start of the tenancy was that the Tenants were renting the entire upstairs unit and did not have to share with the Landlord. The Landlord submit that the Tenants were told they would be sharing a kitchen and bathroom with the Landlord.
6. The parties agree that the Tenants moved into the upstairs unit in early September 2025. The Landlord B.S testified that at the time the Tenants moved in he was mostly staying at his mother's house as no work was being done on the basement. B.S testified that as construction progressed, he started staying in the basement. B.S testified that he started staying in the basement unit of the residential complex in November 2025. The Tenant K.H also testified that B.S was not living in the basement when the Tenants moved in. K.H testified that when B.S started the basement construction he asked to use the bathroom and she made him lunches.
7. In *Cowie v. Bindlish*, 2010 ONSC 2628, the Divisional Court states at paragraphs 16-17 that for the exemption in 5(i) of the Act to apply the landlord must live in the building at the time the tenancy started. It is not sufficient for a landlord to intend to move in or to move in at a subsequent date. The Court states that any interpretation of section 5(i) that would allow a landlord to unilaterally take actions to remove the living arrangement outside the jurisdiction of the Landlord and Tenant Board ('the Board') would be grossly unfair. As the Landlord B.S's own testimony was that he was not residing at the rental complex when the tenancy started the exemption in 5(i) of the Act does not apply.
8. In the alternative, I'm also not satisfied that the basement of rental complex is the Landlord B.S's fulltime residence or that he is required to share a kitchen or bathroom with the Tenants. The Landlord B.S referenced staying at his mothers, he has some cooking facilities in the basement, and he has found alternatives to using the bathroom upstairs. While I accept that issues between the parties may be a contributing factor as to why B.S does not want to use the upstairs facilities, when I consider the evidence as a whole it reflects that the true substance of the transaction between the parties is that the parties have been treating the upstairs kitchen and bathroom as exclusively for the use of the

Tenants. I accept the evidence of K.H about the parties' intentions at the start of the tenancy (that the Tenants would have exclusive use of the upstairs unit) because it conforms with how the parties have been acting.

9. The Landlords also submit that the Tenants have been illegally renting portions of the upstairs unit, bringing unauthorized people to live with them, and that the Ontario Disability Support Program ('ODSP') provided a letter indicating that the Tenant Stacey Steiner's ('S.S') rent would be paid separately. The Landlords submit that this supports that the Tenants are in a shared living accommodation. Even if true that the Tenants have rented out portions of the upstairs unit, have occupants staying with them, or that S.S is paying rent separately that does not satisfy me for the reasons already provided that the Landlord is required to share a kitchen or bathroom with the Tenants.
10. I'm also not satisfied that the Tenants have separate tenancies. It is not uncommon for joint tenants to pay their portion of the rent separately. The Landlords evidence is that the rent for the whole upstairs unit is \$2,800.00. The Tenants are all related and moved in at the same time. This all supports that they have a joint tenancy.
11. The Landlord submits that because there is no written lease agreement that the Act does not apply. Section 2 of the Act establishes that tenancies can be written, oral, or implied. As such the lack of a written lease does not prove there is no tenancy agreement. The Tenants moved in with the permission of the Landlord, agreed on an amount of rent, and made some rent payments.
12. The Landlords also raised issues about the non-payment of rent and the Tenants' conduct. While those issues could be the subject of an eviction application, those issues do not establish that there is no tenancy. If the Tenants had never paid rent, or there was no agreement about the amount of rent, that could support that there was never a tenancy. However, in this case the parties agreed on the amount of rent, the Tenants made the first few payments, and then they stopped paying. That makes them Tenants in arrears of rent, it does not remove their tenancy status.

It is ordered that:

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

April 8, 2026
Date Issued

Amanda Kovats
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.