



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

File Number: LTB-L-052432-25

In the matter of: 107 OTTAWA STREET NORTH
KITCHENER ON N2H3K3

Between: ALAN SWANSON Landlord

And

TAMARA KELLY Tenant

ALAN SWANSON (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. Only the Landlord's Agent, David Swanson ('DS'), attended the hearing.

As of 9:47 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. DS is the Landlord's brother and testified on behalf of the Landlord. DS stated that the Landlord was unable to attend the hearing as he was sick and has been sick for quite sometime. Because of this, DS has been assisting the Landlord with the property and issues related to the tenancy.
2. It was DS's evidence that 107 Ottawa Street North in Kitchener is a two-bedroom detached home. There is only one kitchen and one bathroom in the home which the Landlord and the Tenant share. The Tenant rents a bedroom from the Landlord and has lived there for approximately 3 years. The Landlord is the owner of the home and has lived there for several years and was living there prior to the Tenant moving in and continues to live there as of the date of the hearing.

Analysis

3. Based on the uncontested evidence before me, I am satisfied on a balance of probabilities that the Act does not apply to the tenancy as the Tenant lives in the same building as the

Landlord and shares the kitchen and the bathroom with the Landlord. In this regard, subsection 5 (i) of the Act states,

5 This Act does not apply with respect to,

...

(i) 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 [emphasis added].

It is ordered that:

1. The *Residential Tenancies Act, 2006* does not apply with respect to the Tenant's tenancy.

April 7, 2026
Date Issued

Rachel Gibbons
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.