



Order under Section 69 Residential Tenancies Act, 2006

Citation: Moreira v Moreira, 2026 ONLTB 28044

Date: 2026-04-09

File Number: LTB-L-088897-25

In the matter of: Basement, 48 WESTMOUNT AVE
TORONTO ON M6H3K1

Between: Manuel N. Moreira Landlord

And

Manny Moreira Tenant

Manuel N. Moreira (the 'Landlord') applied for an order to terminate the tenancy and evict Manny Moreira, Doreen Jaworski and Chrystal Katasonoff (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or a person the Tenants permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex;
- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlord resides in the building.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

The Landlord also applied for an order to terminate the tenancy and evict the Tenants because the Tenants have not paid the rent that the Tenants owe.

At the hearing, the evidence was undisputed that neither Doreen Jaworski, nor Chrystal Katasonoff live in the rental unit, and that neither named party believes that they were ever Tenants. They were both occasional occupants of the basement with the possible Tenant, M. Moreira. Both of their names were removed as Tenants. The primary issue is whether or not Manny Moreira is a Tenant. This issue is considered below.

This application was heard by videoconference on January 29, 2026.

The Landlord, the Landlord's legal representative, N. Camorda, and the Tenant attended the hearing. The Landlord's daughter, D. Flagg, attended as a witness for the Landlord.

Determinations:

Adjournment Request:

1. In this order, M. Moreira (MM) is referred to as the Tenant for ease of reference.
2. MM requested an adjournment because he did not have sufficient time to organize his defence and disclose evidence. He said that he had only received the notice of hearing and application package a few days before the hearing.
3. I denied the Tenant's adjournment request for the following reasons.
4. The Board's records show that the notice of hearing package was mailed to the Tenant at the rental unit on January 5, 2026. It was not returned to the Board undelivered. It was deemed served on January 10, 2026, almost three weeks prior to the hearing. In addition, the Landlord's legal representative said that the package was physically delivered to the Tenant on January 22, 2026, and it was also emailed to him on the same date. The N4 and N7 notices of termination were both handed to the Tenant in person in October 2025, three months prior to the hearing.
5. Consequently, I find that the Tenant had sufficient time to hire a legal representative, organize his defence, disclose evidence, or make a valid request to reschedule the hearing. The Tenant did not disclose any documentary evidence prior to the hearing.

Preliminary Issue: Does the Relationship Fall Under the Act:

6. I find, on a balance of probabilities, that this relationship does not fall under the *Residential Tenancies Act, 2006* (the 'Act') for the following reasons. Consequently, the Landlord's application will be dismissed.
7. The rental unit is a basement in a two-storey house with 3 levels. It has been the family home for the Landlord, M.N. Moreira (MNM) for 50 years. The house has three bathrooms and two kitchens. The Landlord's witness, D. Flagg (DF) said that she grew up in the house as a child and all the children "lived" in the basement. She said that it is a cultural norm for her community to have a separate kitchen in the basement, and a bathroom on each level.
8. DF testified, and it is undisputed, that there are no locks on any door separating the levels, and MM is free to come up to the main floor at any time. She said that MM moved back into the family home as an adult, in 1996. She said that her mother told MM that it was a temporary arrangement until he found a new place to live, and he generally used the downstairs kitchen. However, DF said that before her mother passed away, MM came upstairs daily to take meals with the family. DF said that she was present at these meals.

9. MNM said that there is free access between all the levels of the house, and he could go into the basement to use the kitchen or the bathroom at any time.
10. Both MNM and DF said that MM never paid any rent. It is also undisputed that there has never been a written lease between the parties.
11. MM testified that there is no door between the basement and the upper level. He said that the monthly rent was \$400.00, due on the first day of each month. He said he paid it every month until recently, when MNM told him not to pay it any more. MM had no documentary evidence of a rent payment or a maintenance request.

Reasons and Analysis:

12. Section 2 of the Residential Tenancies Act, 2006 (the 'Act') provides that a "Tenant" is a person who pays rent in return for the right to occupy a rental unit. It also provides that a "rental unit" means any living accommodation used or intended for use as rented residential premises.
13. I find that the relationship between the parties was never intended to be a tenancy. There is no written tenancy agreement, and there is no evidence that MM ever paid any rent. MNM and DF said that MM never paid any rent, and MM had no documentary evidence that he paid any rent. I find, on a balance of probabilities, MM never paid any rent.
14. It is also undisputed that there is no locked door between the basement and the upper part of the house, and any one living in any part of the house can freely go between all the other parts of the house. Even if MM mostly lives in the basement and uses the bathroom and kitchen in the basement, the owner MNM can also use the basement kitchen and bathroom. The undisputed evidence of DF was that MM frequently came upstairs to have meals with the family. Therefore, MM frequently shared the kitchen with the owner of the house.
15. Additionally, there is no evidence that the basement was ever rented out as a rental unit, nor was it meant to be a rental unit, nor did a Tenant ever live in the basement prior to MM during the last 50 years.
16. On the basis of my findings above, MM was never a "tenant" as defined by the Act, nor is the basement a "rental unit" as defined by the Act. Further, the relationship is exempt from the Act pursuant to subsection 5(i), a living accommodation where the occupants share a bathroom or kitchen facility with the owner, and where the owner lives in the building in which the living accommodation is located.
17. MM lives in the basement of his family home, which is a single family dwelling, in which MM shares the kitchens and bathrooms with the owner.
18. Since this relationship is not under the jurisdiction of the Act, the application will be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

April 9, 2026
Date Issued

Nancy Morris
Member, Landlord and Tenant Board

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