



Order under Section 69 Residential Tenancies Act, 2006

Citation: REITZEL v KELLY, 2026 ONLTB 26909

Date: 2026-04-07

File Number: LTB-L-096421-25

In the matter of: RENTAL UNIT, 249 4TH ST A E
OWEN SOUND ON N4K1B8

Between: David Reitzel Landlords
Kelly Fenn

And

Patricia M. Kelly Tenant

David Reitzel and Kelly Fenn (the 'Landlords') applied for an order to terminate the tenancy and evict Patricia M. Kelly (the 'Tenant') because the Landlords require possession of the rental unit in order to convert the unit to a non-residential use.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 8, 2026.

Only the Landlords and their Legal Representative, Jacqueline Armstrong, attended the hearing.

As of 1:04 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The rental unit (aka 'nanny suite'), which is attached to the Landlords' main residence, and consists of a one bedroom, one bathroom unit with its own self-contained kitchen and living area.

4. The Tenant is the mother of the Landlord, Kelly Fenn ('KF').

N13 Notice of Termination

5. On November 14, 2025, the Landlord gave the Tenant an N13 notice of termination with the termination date of April 14, 2026. The Landlord claims vacant possession of the rental unit is required for conversion to non-residential use.
6. At the hearing, the Landlords stated that they require the unit to convert the space for KF's home office. KF testified that she is a family doctor and that she works out of several hospitals, visits patients during at-home visits, but does not have a designated office space to run her practice. KF said she would not be assessing patients in the converted space; however, she would conduct zoom meetings and have phone calls with patients. KF said she is currently using her home, the main house, for these phone calls and zoom meetings, but as her family continues to grow, she requires her own private space to conduct her medical business.
7. The Landlords stated there are no permits necessary as there is no work to be done to the unit for the conversion of the rental unit to the home office.
8. The burden of proof rests with the Landlords to establish they require the rental unit to be vacated in order to convert it to a nonresidential use.

Analysis

9. Section 50(1) of the *Residential Tenancies Act*, 2006 (the 'Act') states in part:

A landlord may give notice of termination of a tenancy if the landlord requires possession of the rental unit in order to,

(b) convert it to use for a purpose other than residential premises

10. The N13 Notice of termination that was issued indicates its being issued on the basis that the Landlords require the unit for conversion into a professional medical office. However, at the hearing, the Landlord's own testimony confirmed that she would not be meeting any patients in the space, only conducting some phone calls or zoom meetings, when necessary, as well as completing patient charts, which appeared to be the same use as her current home office within the home. KF said there would be zoning permits required should any patients attend the office with the residential complex, and she had no plans to obtain such permits or to attempt the change the zoning from residential.
11. In my view, there is a significant difference between a professional medical office and a private home office. A medical office, where a medical professional assess patients, would not be considered usage for residential purposes, as is clear from the need to amend the zoning to be permitted to do so.
12. I find that based on the Landlords' own testimony of the rental unit being an extension of their home and to be used as a home office, not a commercial medical office, they have not established that the Landlords intend to use the rental unit for non-residential

purposes. The Landlords also do not intend to convert the rental unit to a commercial or industrial unit and will reside in the property as a single unit.

13. The Landlords may want to stop operating the nanny suite as a rental unit and use it as a home office; however, this is not a “conversion” to non-residential use which would permit a termination of the tenancy pursuant to the Act.
14. As such, I am not satisfied that the Landlords have met the burden of proof to establish that the Landlords intend to convert the rental unit to non-residential use. The Landlords’ application for this reason must be dismissed.

It is ordered that:

1. The Landlords’ application is dismissed.

April 7, 2026
Date Issued

Colette Myers
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.