



Order under Section 31 Residential Tenancies Act, 2006

Citation: McKinlay v Vrancor Hospitality OA Staybridge Suites, 2026 ONLTB 29975

Date: 2026-04-22

File Number: LTB-T-022226-26

LTB-T-008001-26

In the matter of: 604, 20 CAROLINE ST S
HAMILTON ON L8P0B1

Between: John McKinlay
Sherrell Smith
Occupants

And

Vrancor Hospitality O/A Staybridge Suites
Owner

John McKinlay and Sherrell Smith (the 'Occupants') applied for an order determining that Vrancor Hospitality O/A Staybridge Suites (the 'Owner'):

- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenants replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenants or by a member of their household.

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

The Owner's Representative, Peter Scott and the Owner's Agent, Tina Easto and the Occupants, attended the hearing.

At the hearing, the Occupants informed me that they have another pending application involving the same rental unit and parties. The parties agreed that if I determine that this matter falls outside of the Board's jurisdiction, the parties agree to have that same finding apply to the other application. The other application is LTB-T-008001-26.

Determinations:

1. As explained below, the tenancy is exempt from the *Residential Tenancies Act*, 2006. Therefore, the application must be dismissed.

Agreed Upon Facts:

2. The parties agree that the Occupants initially occupied the rental unit on October 30, 2025. The parties also agree that the Occupants were removed from the unit with the assistance of the police department on February 27, 2026.
3. The parties also agree that the Occupants initially booked their stay at the unit through an online booking site titled hotels.com
4. The parties agree that the unit was initially occupied as a temporary form of accommodation for the Occupants.

Preliminary Issue: Does the Act Apply?

5. The Occupant, John McKinlay (J.M.), testified that he initially occupied the rental unit on October 30, 2025. He confirmed that the room was initially booked online through hotel.com. He recalls finding the room on Google and it being one of the most competitive rates that he found.
6. J.M. testified that he occupied the room with his mother who was also named an Occupant in the booking reservation. He testified that he believed his initial booking was for a period of one or two weeks, after which time he continued to extend his stay at the unit.
7. J.M. testified that everything was going well until January 2026, when he was short on a payment and that is when the attitude of the Owner staff changed towards him.
8. J.M. testified that on February 26, 2026, the police attended the unit at the Owners request to have the Occupants removed from the unit. The police did not remove the Occupants and left the property.
9. J.M. testified that on February 27, 2026, the police returned and forcefully removed him and his mother at the request of the Owner. He was displaced from his home with his cat.
10. J.M. testified that when he initially occupied the rental unit, he occupied the unit with the understanding that it would be on a temporary basis. J.M. also testified that he believed that to have changed after the third or fourth week of his stay in the unit.
11. J.M. does not believe that the exemption under section 5(a) applies to his circumstances because he is not part of the "vacationing public", and he perceived the rental unit as his permanent residence as opposed to a temporary one.
12. J.M. testified that he was given an extended stay rate by the Owner and provided with a cut in taxes. Specifically, the municipal accommodation tax that the motel or hotel are required to charge under their regulatory bodies. J.M. testified that when he initially moved into the unit, he was charged the tax on his daily rate. By no longer charging him the taxes, J.M. believes this would become an implied residential tenancy.
13. J.M. confirmed that his unit included complimentary breakfast daily, room service, and house cleaning services with garbage removal daily. J.M. testified that the services slowly got worse towards mid-January 2026, and by February 2026 he no longer had any housekeeping but still had the benefit of the complimentary breakfasts.

14. J.M. confirmed that he was never provided with a lease agreement to sign.
15. J.M. tendered multiple documents into evidence. The documents included an email thread in which the Occupants sought a reduction in their daily rates. The Occupants also sought an extension of their stay at the property and made references to not being agreeable to vacate the unit due to “human rights”. I am mindful that the email communications make no mention of a residential tenancy, nor do they make any mention of the Occupants requesting a residential tenancy agreement. I am also mindful that the Owner’s language in the email uses language such as check out times and future bookings. I am also mindful that another email confirms that the Occupants will no longer be charged a municipal accommodation tax.
16. J.M. confirmed that he initially had to move into this unit because of a difficult situation that transpired with his previous housing. He believed that because the Owners agreed to remove the taxes, provided him with an extended stay discounted rate, and because he used the unit as his primary residence that the unit was not exempt from the Act and was in fact a residential tenancy. Accordingly, this would mean that the Owner’s actions of directing the police to forcefully remove the Occupants from the unit is an illegal lock out under the Act.
17. J.M. sought a determination that the Act applies to his occupancy, an order awarding general compensation in the amount of \$15,000.00 and an order requiring the Owner to reinstate his residential tenancy.
18. The Owner’s Witness, Tina Easto (T.E.) is employed by the Owner named in this application. She testified that the Owner and establishment named as a landlord in this application is in fact a hotel specializing in extended stays that is part of the Holiday Inn Hotel Chain. She argues that the Owner and the relationship between the parties falls under the Innkeepers Act and is exempt from the *Residential Tenancies Act*, 2006, by virtue of section 5(a).
19. T.E. testified that she is employed as a hotel manager and that the hotel has been in operation since 2012. The hotel complex contains over 120 rooms, of which none are leased out as residential leases. All the accommodations are rented on a temporary basis as a full-service hotel.
20. T.E. testified that the Occupants initially booked their stay online through “hotels.com” and that the original booking was for a period of five days. She testified that the Occupants continued to extend their stay after the initial five-day booking but never at any point discussed or even asked to have a tenancy or become residential tenants.
21. T.E. testified that the Occupant’s extension of their initial booking was very common as this hotel was known for accommodating extended stays.
22. T.E. confirmed that after 29 days the Occupants were no longer being charged the municipal accommodation tax. She also went on to explain that this is common with all motels/hotels and required by regulations. It is standard practice to stop charging this tax after 29 days of accommodation. T.E. testified that this in no way, shape, or form implied a residential tenancy but was rather simple compliance by the Owner of regulations for hotels and motels.

23. T.E. testified that the Occupants complained directly to the Intercontinental Hotel Group (IHG), which contacted the Owner and notified them of the Occupants' concerns and requests for reduced rates and extended stay. Ultimately, IHG elected to allow the Owner to handle his business as he felt appropriate given the circumstances. T.E. did discount the rate a gesture of goodwill.
24. T.E. testified that the room which the Occupants stayed in included complimentary daily breakfasts, room cleaning, towel service, and maid service. The Occupants did not have a mailbox for mail service. T.E. also testified that the Occupants earned reward points for their stay at the hotel and used the reward points to pay for free accommodation for a period of five nights. T.E. also testified that the Occupants were also charged a daily rate and would be invoiced accordingly. The Owners tendered a copy of all the Occupant's invoices relating to their stay at the hotel as well as a document showing the application of the Occupants reward points for a free stay.
25. T.E. testified that no rent deposit is collected by the hotel and that no lease is ever signed because the accommodation is only provided on a temporary basis. T.E. also testified that none of the accommodations that are provided are done so in the form of residential tenancies with care services.
26. T.E. testified that the Owners have had to cancel approximately 25 to 30 separate bookings that the hotel had for this room because the Occupants insisted on extending their stay and refused to leave what they believed to be their home.

Preliminary Issue: Analysis

27. Section 5(a) of the Act reads:

5 This Act does not apply with respect to,

(a) living accommodation intended to be provided to the travelling or vacationing public or occupied for a seasonal or temporary period in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast vacation establishment or vacation home.

28. Based on the evidence, I am not satisfied that the parties in this relationship had an implied tenancy or otherwise. I say this because the Occupants confirm taking occupancy of the room on a temporary basis. I am not satisfied that the Owner agreed to rent this unit to the Occupants on a permanent basis nor am I satisfied that the actions of the Owner resulted in an implied tenancy. This was never intended to be rented as long term or permanent accommodation for the Occupants. The hotel's agreement to extend a guest stay beyond 29 days should not put that hotel at risk of creating a residential tenancy. It is not uncommon for temporary accommodation to go beyond 29 days. I am also mindful that this is not a care facility, yet it offers its guests room service, maid service, towel service, and complimentary daily breakfast buffets. These are not characteristics of a residential tenancy agreement but rather that of a guest staying at a hotel or motel.

29. Accordingly, I find that this relationship falls under this exemption because it is intended to be occupied on a temporary basis in a hotel establishment. Despite, the Occupants using the unit as their primary residence, the unilateral use of a hotel room as a primary residence does not make it a home nor does it make the guest of that room, tenants in a residential tenancy. Therefore, the applications must be dismissed.
30. The parties are aware that this finding that the Act does not apply to this tenancy renders application LTB-T-008001-26 moot as well. Therefore, both applications are dismissed.

It is ordered that:

1. The Tenants' applications LTB-T-022226-26 and LTB-T-008001-26 are dismissed.

April 22, 2026

Date Issued

Ilan Shingait

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.