



Order under Section 31 Residential Tenancies Act, 2006

Citation: Udoka v Monteiro, 2026 ONLTB 38236

Date: 2026-05-20

File Number: LTB-T-096855-24

In the matter of: 37 IVAN ROAD
SCARBOROUGH ON M1C1V1

Between: Victor Udoka Tenant

And

Ursula Monteiro Landlord

Victor Udoka (the 'Tenant') applied for an order determining that Ursula Monteiro (the 'Landlord') substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.

Victor Udoka (the 'Tenant') also applied for an order determining that Ursula Monteiro (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on April 16, 2026.

The Landlord and the Tenant attended the hearing.

Determinations:

Preliminary Issue

1. At the outset of the hearing, the Landlord raised a preliminary issue asserting that the *Residential Tenancies Act*, 2006, SO 2006, c 17 (the "Act") does not apply pursuant to section 5(i).
2. The evidence and submissions in relation to the preliminary issue were concluded on April 16, 2026, and the parties were advised that the merits of the Tenants application would be scheduled on a future date if it is determined that the Act applies.
3. For the reasons that follow, the Act does not apply and accordingly, the Tenant's applications are dismissed.

Does the Act Apply?

4. Section 5 of the Act sets out exemptions from the Act, and section 5(i) provides:

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

5. Since it the Landlord raised the exemption and asserts that the Act doesn't apply, the Landlord has the burden to prove their position on a balance of probabilities.
6. Any reference in this order to "landlord", "tenant", "rental unit", "residential complex", or other similar terms, are used for ease of understanding and are not determinative of the relationship between the parties or whether the Act applies.

Landlord's Evidence

Dwayne Monteiro

7. The Landlord's son, Dwayne Monteiro (DM) testified that the residential complex is a single family detached home with three bedrooms on the upper floor and 4 bedrooms in the basement. DM's evidence is that he lives at the residential complex with his mother, father, grandmother, and his sister Kim.
8. DM explained that there's one kitchen in the basement of the residential complex that his family uses after the main floor stove was removed after purchasing the property. DM gave evidence that his sister lives in the fourth room in the basement and DM travels for work but stays in the third room in the basement on a full-time basis.
9. DM testified that his mother and sister use the kitchen in the basement, and he would occasionally cook there too. DM's evidence is that it was mostly his mother and grandmother who did the cooking.
10. DM concluded his testimony by stating that it is made clear to anyone entering the residential complex that they are sharing spaces with the Landlord and their family. DM's evidence is that the family moved in together and have lived there for 12 years with all of their mail and ID's reflecting the address of the residential complex. DM further testified that he and his sister both still reside at the property.
11. During cross-examination DM explained that there was a chore schedule that was divided in three representing the three rooms being rented in the basement, but the Landlord's family had other chores that were divided between themselves such as lawn care, cleaning, and mail retrieval.

Greg Nugent

12. Gren Nugent (GN) testified that he is a contractor that has done several projects for the Landlord beginning in approximately 2016/2017.

13. GN recalled doing a maintenance repair some time in 2024 and testified that at the time the Tenant, another gentleman, and both the Landlord's son and daughter were living in the basement of the residential complex.
14. GN corroborated DM's evidence that the residential complex has three bedrooms upstairs and the only kitchen with a stove is in the basement. DM also testified about the layout of the basement having one room on the left, the kitchen is on the right side, then there's two more rooms and a door at the end of a hallway the leads to the room that the daughter of the Landlord occupies.
15. GN further testified that when he does maintenance work for the Landlord, he has seen them cooking in the basement and has been offered food by them. GN also gave evidence that he installed pot lights, hung pictures, and did painting in the room occupied by the Landlord's daughter.
16. GN described his relationship to the Landlord as being a contractor but acknowledged that he was involved with rent collection at one point.

Oscar Contreras

17. OC testified that he is a personal trainer and provided personal training sessions to the Landlord and her daughter. OC gave evidence that he was contacted in approximately November 2023 by the Landlord who has some mobility issues.
18. OC explained that he would provide training sessions to the Landlord a few times per week and would see the Landlord's daughter weekly.
19. OC corroborated much of the prior testimony in relation to the layout of the interior of the property, and that there was only one kitchen in the house. OC testified that he would see DM at the house but was unaware of his circumstances or living arrangements because the extent of their relationship was described as being "acquaintances".
20. OC testified on cross examination that he had seen the Tenant, but they were never formally introduced. OC's evidence is that during a training session with the Landlord's daughter the Tenant was making noise in the kitchen and they moved the training session to the Landlord's daughter's room.

Aqeel Akhtar

21. Aqeel Akhtar (AA) testified that he is a mechanical engineer and knows the Landlord's daughter because he is a client of her employer and she provides him with financial advice.
22. AA gave evidence that he would visit the Landlord's daughter in the basement of the property and saw a small kitchen in the basement. AA testified that he recalled a with the Landlord's daughter and the Tenant was cooking necessitating AA and the Landlord's daughter to go to her room because it was too noisy.

Tenant's Evidence

23. The Tenant testified that there were three rooms in the basement and could not understand the testimony from the others that there were four rooms in the basement.

24. The Tenant acknowledged that the Landlord has a daughter but denied knowing her name or that he shared a kitchen with her.
25. The Tenant explained that the three rooms in the basement were occupied by “Tony” and “an Indian guy”, and “some other guy from Africa”. The Tenant’s evidence is that the Landlord pointed at “Tony’s” room and said that her son lives here.
26. The Tenant further testified that he never saw the Landlord’s daughter walk out of her room or do anything in the basement. The Tenant believes that the Landlord and her son live upstairs but denied knowing where the Landlord’s daughter lives.
27. The Tenant also testified that there is a fourth door in the basement but doesn’t know what happens behind the door and vehemently denied sharing a kitchen with the Landlord or their family.
28. On cross examination the Tenant denied having an altercation with the Landlord’s daughter on January 9, 2024, and denied texting the Landlord to complain about her daughter using the stove on January 30, 2024.
29. The Tenant was also asked about an agreement that was signed when the Tenant took occupancy of the room. The document clearly indicates that the Tenant is required to share a kitchen with the owner of the property. The Tenant conceded that the signature resembles his but denied signing the document testifying that he wasn’t present on the date reflected on the document.
30. The Tenant first testified that he was not present on December 29, and that he did not sign any documents. The Tenant’s testimony changed to be that “if I signed something it was something to deceive me”. The Tenant then testified that he may have signed the document but not until some time in January.
31. The Tenant did not deny that he was told that he would be sharing space with the Landlord or their family, but believed he was “tricked” because the Landlord referred to “Tony” as being her son which the Tenant did not find out was untrue until after taking occupancy of the room.

Analysis

32. The Act does not apply to living arrangements whose occupants are required to share a kitchen or bathroom 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.
33. In this matter four separate individuals testified, and their testimony was largely consistent on the following points:
 - The Landlord (owner) lives at the property;
 - The Landlord’s basement has three rooms, a kitchen, and a hallway leading to a fourth room;
 - The only kitchen in the property is in the basement;
 - The Landlord’s daughter lives in the fourth room;

34. When assessing the evidence of DM and GN their evidence was clear and largely corroborated by other witnesses. The evidence of GN is given slightly less weight because it was acknowledged he became involved in a rent dispute between the parties that goes beyond the role of just providing contractor services.
35. GN's proximate relationship to the Landlord that was not initially disclosed during his testimony casts some doubt on the impartiality of his evidence.
36. Despite this, two other witnesses testified that they had professional relationships with either the Landlord or her daughter and much of that testimony was clear, consistent, and corroborated.
37. The Tenant's testimony that he did not know the Landlord's daughter, did not see her, and did not know her name lacks credibility when compared to the detailed testimony of the other witnesses.
38. The Tenant's evidence was often inconsistent, self-serving, and unreliable. The Tenant first testified that there were three rooms in the basement but then acknowledged that there is a fourth door. When confronted with the proposition that there was another door in the basement the Tenant's testimony then became that he didn't know what happened behind that door.
39. The Tenant's denial that there are four rooms in the basement contrasts with his subsequent testimony that there is another door in the basement. The Tenant conveniently relies on the position that he doesn't know what happens behind the fourth door however, I prefer the evidence of the Landlord's witnesses that the Landlord's daughter resided behind the fourth door.
40. The Tenant first denied signing the agreement that indicates he would be sharing space with the Landlord, then his testimony changed to be that the Landlord must have "lifted his signature". The Tenant denied being at the property on the date the agreement was signed but later acknowledged he was at the property on December 29.
41. The Tenant's testimony changed again to be that he admits the signature is his and that "something was signed", but argues that it was signed after the Landlord mislead him about "Tony" being her son.
42. The Tenant's testimony often changed to support the narrative being asserted however, this ultimately undermined the credibility and reliability of the Tenant's testimony.
43. It would not be unreasonable in the circumstances to draw a negative inference from the lack of testimony from the Landlord's daughter but any negative inference that could be drawn is satisfied by the independent testimony of AA and OC.
44. The evidence before me is that the owner, her spouse, son, and daughter reside at the property. The consistent evidence is that there is only one stove (kitchen) and the Tenant was advised prior to taking occupancy that he would be required to share space with the Landlord and her son.
45. The Landlord's son testified that his mother, grandmother and sister use the only kitchen in the house. While the Tenant argues that the Landlord deceived them that "Tony" was their son, this is still indicative that the Tenant was advised that they would also be sharing space with the Landlord's son even if it was not "Tony".

46. Based on the evidence before me, I am satisfied that this property is occupied by the owner, and the occupants are required to share a kitchen with the owner. The evidence also supports a finding that the occupants are required to share a kitchen with the owner's daughter, and to a lesser extent, the owner's son DM.

47. In these circumstances, the rental unit is exempt from the provisions of the Act pursuant to section 5(i). Accordingly, the Act does not apply.

It is ordered that:

1. The Act does not apply.
2. The applications are dismissed.

May 20, 2026
Date Issued

Kyle McGraw
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.