



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

Citation: Hepburn v Hepburn, 2026 ONLTB 39951

Date: 2026-05-25

File Number: LTB-L-033751-24

In the matter of: Trailer Behind Barn, 2619 30th Side Road
Campbellville Ontario L0P1B0

Between: Russell Hepburn Applicant
Margaret Hepburn

And

Chad Hepburn Respondent

Russell Hepburn and Margaret Hepburn (the 'Applicant') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies.

This application was heard in parts by videoconference on November 19, 2024, December 5, 2025, January 16, 2026, and March 11, 2026.

Given many of the parties to this application share a common last name, I am using the given names of parties with the last name Hepburn throughout the order for ease of reference.

The Applicant, Russell Hepburn ("Russell"), and the Applicant's Legal Representative, Barrett Beaudoin, attended on all dates.

The Applicant, Margaret Hepburn ("Margaret"), attended for part of the hearing on November 19, 2024 and attended the hearing on January 16, 2026.

Chad Hepburn ("Chad") attended on November 19, 2024, January 16, 2026 and March 11, 2026.

Chad's Witness, Stephanie Brooks ("Ms. Brooks"), and Chad's Witness, Amy Hepburn ("Amy"), attended on January 16, 2026.

Shane Hepburn ("Shane"), attended on each of November 19, 2024, December 5, 2025 and January 16, 2026 and served as Chad's non-legal representative on these dates.

Belinda Evans ("Ms. Evans"), who served as Chad's Witness, and after as a non-legal representative for Chad, attended on January 16, 2026 and March 11, 2026.

Mark Wall ("Mr. Wall"), who served as a non-legal representative for Chad, attended on March 11, 2026.

Determinations:

Preliminary Issue – Capacity of Applicant to bring the application

1. Chad submits that the application cannot proceed as it was originally brought solely in the name of Russell. Chad submits that Russell does not have standing to bring the application as while Russell is the legal owner of the land on which Chad's trailer sits, a life estate was granted to Margaret as part of the transfer of the land to Russell. On that basis Chad submits that Russell did not have standing to bring the application as it was Margaret who would retain control over the occupation of the Land and who was permitted to make determinations as to who can occupy portions of the land.
2. The matter was stood down, and when it was recalled Margaret joined the hearing and consented to being added as a Applicant party to the application, and to be jointly represented by the Applicant's Legal Representative. While Chad objected to adding Margaret as a party to the application, and took the position that the application was void because it was not brought by a party with standing, I disagree with this assessment.
3. LTB Rule 15.4 states:

"The LTB may exercise its discretion to grant a request to amend made at the hearing if satisfied the amendment is appropriate, would not prejudice any party and is consistent with a fair and expeditious proceeding."

4. This application is not grounded by a notice of termination or other document that cannot be amended. There is no time limitation in filing an application for a determination as to whether the Act applies to a matter. There is therefore no prejudice to adding a party to an application after it is filed given the same application could be filed on the very date of the hearing. Refusing to permit the application to continue on this basis would therefore only serve to cause delay. I therefore determined that it was appropriate to add Margaret as a party to the application and hear evidence on the basis of Margaret being included in it.
5. While Chad submitted there was prejudice to them because they did not receive prior notice of an amendment, I find that any such prejudice was cured given the application was amended, and the substance of the matter adjourned for the reasons specified in LTB-L-033751-24-IN.
6. Further, the unique nature of an A1 application lends itself to adding parties and hearing evidence prior to making any determinations as to who may be the proper party to bring the application. Under the application, Russell may be found to be a landlord subject to the Act, Margaret may be found to be a landlord subject to the Act, both or neither may be found to be landlords subject to the Act. These determinations go to the heart of this application, and I do not find that there is any reason why it is not both proper and expeditious in accordance with the Board's obligations under section 183 of the Act to make these determinations together in one application, notwithstanding that Margaret was not initially named in it.

Preliminary Issue – Description of Address

7. Chad disputed that the description of the address, Trailer Behind Barn, 2619 30th Side Road Campbellville, Ontario L0P 1B0 was an adequate description of Chad's dwelling and that the application should be dismissed on that basis. Given that there is no notice of termination attached to this application, there is nothing to prevent the address description from being amended in this application as it would present no prejudice to Chad to do so. I announced to the parties that given this, the description of the address would not result in a dismissal of the application, but I would hear submissions on an alternative address description that was more appropriate if parties wished to make those submissions. Chad did not further pursue this issue after this determination was announced, or suggest what the appropriate alternative address description would be, and so I find it is appropriate to leave the address description for this application as filed.

Capacity of Shane

8. On November 19, 2024 there was some question of the role Shane would play in the hearing. The difference between a support person and a representative was explained to Shane and Chad, and it was determined Shane would serve as a non-legal representative for Chad. Despite this, there appeared to be confusion in relation to this issue leading up to the December 5, 2025 hearing date as further outlined in LTB-L-033751-24-IN2. On January 16, 2026, this was further addressed and Chad and Shane agreed that Shane had served and would serve as a non-legal representative for Chad in the proceeding.

Adjournment Request on the First Hearing Date

9. After the ruling was made on the preliminary issue above, Chad requested an adjournment of the November 19, 2024 hearing date. That adjournment was granted for the reasons contained in LTB-L-033751-24-IN, and this adjournment was peremptory on Chad.

Adjournment Request on the Second Hearing Date

10. Despite the first adjournment being marked as peremptory on Chad, a further adjournment of the December 15, 2025 hearing date was granted when Chad did not attend for the reasons outlined in LTB-L-033751-24-IN2.

Adjournment Requests on the Fourth Hearing Date

11. Neither Chad nor anyone representing Chad attended the hearing at its outset on March 11, 2026. After the matter was already in the process of proceeding with the final submissions of the Applicant given Chad's non-attendance, Chad attended at approximately 9:30 a.m. At this point Chad made a further adjournment request. The basis for this request was:
 - a. Shane had been told he had to move within 5 days as Shane's dwelling was deemed uninhabitable, and so could not attend the hearing; and

- b. A witness Chad wished to call, Amy, was unavailable on the hearing date due to a specialist appointment for her child that could not be rescheduled.
12. I note that a request to reschedule was made by Chad on March 9, 2026 on the above basis, and so Chad was aware of these circumstances prior to the date of the hearing. I further note that the Applicant in their response to Chad's request to reschedule identified to Chad that they would require corroborating documentation of these circumstances to consider consenting to this request. Despite this, no documentation to substantiate these circumstances were provided to the Applicant or the Board prior to the hearing.
13. As there were further witnesses to hear from that were present, it was not initially relevant for the purposes of adjournment that Amy was not available to testify, as there was other evidence that could be heard and proceeded upon. I informed Chad that if we finished the remaining witnesses Chad could then again raise an adjournment request on this basis (and this will be further addressed below).

Adjournment Request Based on Shane's Non-Attendance

14. Chad submitted that an adjournment was required as Shane had been acting as Chad's non-legal representative throughout the proceeding, and Chad states he suffers from cognitive disabilities and requires help to proceed. Chad submitted that he wanted Shane to be present as he was present for the rest of the hearing and knows best what is going on with it.

15. LTB Rule 21.8 states:

"A CMH or hearing may be adjourned at the discretion of a Hearing Officer or Member where satisfied that an adjournment is required to permit an adequate hearing to be held. Relevant factors the LTB may consider in deciding the request include:

- a. the reason for the adjournment and position of the parties;*
 - b. the issues in the application;*
 - c. any prejudice that may result from granting or denying the request;*
 - d. the history of the proceeding including other adjournments or rescheduling; and*
 - e. the LTB's obligation to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter."*
16. No corroborating documentation was provided in relation to Shane's circumstances. I do not find it reasonable to adjourn this matter on the basis of the explanation that Shane is required to move in 5 days given the procedural history of this matter, and that the matter remains peremptory on Chad to proceed given the prior adjournments. I find there was no reason presented why Shane could not have reasonably participated in the hearing by

phoning in or attending the hearing by video-conference for the period of a few hours, despite the need for him to move, even if this was an accurate depiction of Shane's circumstances.

17. I am also not satisfied that Shane's circumstances as described by Chad are accurate given the lack of corroborating documentation such as a property standards order or other similar documentation presented. If these circumstances do exist, there would be documentation of it that would reasonably be expected to be provided if these circumstances are the basis to make this extraordinary third request for an adjournment made by Chad, and the second made in relation to a date peremptory on him. This is especially so given the Applicant put Chad on notice of the need to produce this documentation.
18. I note as well that Mr. Wall and Ms. Evans were both present at the hearing and available to assist Chad. Mr. Wall did not have much knowledge in terms of the facts and historical circumstances of this matter, but Chad acknowledged that Ms. Evans had a better knowledge of it. It was determined that to assist Chad, Ms. Evans could provide testimony first, with the assistance of Mr. Wall as a non-legal representative, and Ms. Evans could then further assist in the role as a non-legal representative after her testimony had concluded.
19. I find given this level of assistance available to Chad, while there was some prejudice to Chad in proceeding without the presence of Shane, this prejudice was limited and the matter could be heard in a manner that provided Chad adequate means of knowing all of the issues and being heard in relation to them. I find further that given the number of adjournments required for this matter, including two previously at the request of Chad granted over the Applicant's objections, that a further adjournment of this date peremptory on Chad and the resulting further delay would be more prejudicial to the Applicant. This is particularly so as I find the basis of Shane's non-attendance to be unreasonable, even if I were satisfied the circumstances described were accurate.
20. On the basis of the above, the adjournment was denied and the evidence of Ms. Evans and Chad was taken.

Adjournment Request Based on Amy's Non-Attendance

21. Following the evidence of Ms. Evans and Chad concluding, Chad renewed his adjournment request on the basis that Amy was unavailable to attend the hearing.
22. Chad submitted that Amy could not attend due to a specialist appointment related to an injury to her child. No evidence of this specialist appointment was provided. Chad had no details such as the time of the appointment, or when Amy might be available in the day to attend the hearing. I therefore found it appropriate to telephone Amy on the record in the hearing to get details as to why she could not attend. This telephone call took place at approximately 10:36 a.m.
23. Amy indicated on the telephone that she was just about to get ready for the day to then leave to drive to Hamilton for an appointment for her son with a surgeon that commenced at 2:00 p.m. Amy testified that the appointment is an hour away, but that depending on

traffic it can take significantly longer and they also require additional time to find parking and walk the distance to the actual location of the appointment.

24. Chad submitted that Amy's testimony was required as Amy knows a lot about the circumstances in this matter and it would be very assistive to him in proving his position.
25. The Applicant submitted that it would be highly prejudicial to the Applicant to grant a further adjournment given this date was peremptory on Chad and Chad already received an adjournment on a date previously peremptory upon them. The Applicant submitted that given the timing involved, Amy could have attended the hearing at 9:00 a.m. to have her testimony heard, and no reasonable explanation was provided for why this could not have occurred.
26. Given Amy was only just getting ready for the day, and then intended to leave at some point after that to the appointment, it is clear that Amy could have attended the hearing at 9:00 a.m. by phone if they had wished to do so. The appointment is at a site typically one hour away and commenced at 2:00 p.m. Even allowing for traffic and further time to park and walk to the location in question, this would have allowed several hours for Amy to attend and provide testimony if she had chosen to do so. It is not reasonable for a matter to be further adjourned to a fifth hearing date as Amy chose not to attend in circumstances she was reasonably able to.
27. After hearing the evidence of Chad, it is also unclear what Amy could shed light on that Chad could not. On previous hearing dates Amy was described as a witness that would speak to the payments made by Chad to Margaret and Chad's late father, Donald Hepburn ("Donald"). As will be discussed below, Chad acknowledged in his testimony he made no cash rent payments, and that while he paid hydro it was infrequent that he did so.
28. I find that granting an adjournment in these circumstances would cause prejudice to the Applicant to a greater degree than Chad is prejudiced by not having the testimony of Amy in these circumstances.
29. The adjournment was denied on the basis of the above and the matter proceeded to final submissions.

Position of the Parties

30. The Applicant's position is that the Act does not apply to Chad's living circumstances. The Applicant submits that Chad was permitted to put a trailer on the family farm and live there as part of a familial living arrangement and the parties never intended to enter into a tenancy, or create legal relations.
31. Chad's position is that the Act does apply to their living situation. Chad submits that there was an agreement to allow Chad to live on the property and in return for paying off the trailer purchased and helping out on the family farm. Chad submits they also paid utilities at certain points while living in the trailer as part of the consideration for doing so.

Summary of Key Findings

32. I find that Chad's living arrangements on the family farm were intended as occupation pursuant to their familial relationship, more akin to a gratuitous licence, rather than pursuant to an arrangement that would qualify as a tenancy agreement pursuant to the Act. I find that any such licence existing in these circumstances was insufficient to meet the threshold of a licence to occupy that would be capable of qualifying as a tenancy agreement pursuant to the Act as the required key terms of it were insufficiently defined and there was no intent on the parties to create a legal relationship.
33. Based on the above, I am satisfied on a balance of probabilities that the Act does not apply to the relationship between the parties.

Facts

34. The parties agreed that Margaret and Donald purchased a trailer for Chad to place on the family farm in the early 1990s to live there with his then girlfriend Ms. Evans. The parties also agree that Chad left the trailer at various times over the years. The parties disagree whether Chad gave up his occupancy during some of those periods, or should be considered to be in occupation throughout.
35. The Applicant's position is that Chad never paid rent to stay in the trailer. Russell testified that since he has taken ownership of the property Chad has both not paid any amount of money to him and has not performed any services on the farm. Margaret testified that Chad has not paid anything for a number of years. Margaret acknowledges that at some point in time there was an agreement for Chad to pay the hydro for the separately metered area that included the trailer and the barn which had been converted to a shop, but states that Chad never actually paid any of those bills.
36. Chad testified that he did pay the hydro bill on occasion, but acknowledged it was not frequent or with regularity. Chad testified that this was in part because Margaret would tell him that he didn't need to do so often, particularly if he'd been doing a lot of work around the farm in that period. Chad acknowledges that beyond hydro, he never made any cash payments. Chad states he gave consideration by doing work around the family farm.
37. Ms. Brooks lived as a tenant in a separate unit on the farm from 2015 to 2022. She testified that she had a conversation with Margaret in which Margaret stated that Chad paid for the hydro for a portion to the property. Margaret testified that she did not recall this conversation.
38. I found Ms. Brooks to be credible in this regard. She described that this conversation occurred in the context of Margaret explaining how hydro was split on the property for the purposes of Ms. Brooks' tenancy. Ms. Brooks also repeatedly testified that she was not aware of any discussions related to rent, or agreements to pay rent and other matters. Ms. Brooks was clearly intending to be accurate and reflect only her memory of events. I find this to be the most reliable testimony on this issue. On that basis I find that Chad at some points did pay hydro for a portion of the property, though only infrequently given Chad's testimony regarding the same.

39. Chad points to an intent to rent agreement provided somewhere around 2002 that states Chad intended to pay rent of \$650.00 a month as evidence that there was an agreement to rent the premises. Margaret testified this was provided upon Chad's request in an effort to have Chad enrolled for benefits related to ODSP, as this statement was required. Margaret testified that the amount put on the agreement was essentially made up as what Margaret thought might be appropriate, and Margaret hoped Chad would pay this amount once he was on those benefits. The parties both acknowledged that Chad never did.
40. Margaret acknowledged that at this point Margaret considered this to be a tenancy agreement, but was very clear that rent was never paid at any point pursuant to this agreement. After it became clear Chad was never going to pay, and had never intended to pay rent pursuant to the document, Margaret asked him then instead to pay the hydro.
41. Margaret acknowledges that Chad throughout the years did perform services for the family farm including relating to cutting grass, ploughing snow, around the farm maintenance and taking care of livestock in the past when the farm had livestock. Margaret also testified that Chad was always paid for work by Donald. Margaret testified that her understanding was that Chad did these things around the family farm both to help out Donald and because he wanted money from Donald for doing them. Margaret testified that after Donald passed away in 2020, Russell has taken care of any of these services and Chad has ceased to do any services on the family farm.
42. Chad testified that he did these jobs on the farm up until August, 2024 when he was told by Russell that Russell would be taking care of these items, and he was no longer welcome to do so. Chad testified that he performed these services to help maintain the farm as part of his agreement to stay there. Chad did not dispute Margaret's testimony that he was also paid for services rendered on the farm.
43. It was also put to Margaret in cross-examination that she provided Chad with rent receipts for tax purposes. Margaret did not remember doing so, but testified if she did it would be to help Chad out upon his request, and not because he actually ever paid rent. Given Chad acknowledged not paying rent, I do not find it necessary to make a determination on this issue for the findings in this order, and further note that no such receipt was provided as evidence for consideration.
44. Ms. Evans testified that in or around 1991, Donald and Margaret purchased a trailer for Chad and Ms. Evans to live in on the property. Ms. Evans testified that the agreement was to pay the cost of the trailer off, and then it would be theirs. Ms. Evans testified that she and Chad paid off the trailer long ago, though she could not remember details of this. I note that questions regarding payments for the trailer were not put to Margaret during her cross-examination. No documentary evidence as to the ownership of the trailer or payments were provided. I do not find it necessary to make determinations in respect to the ownership of the trailer to dispose of this application, and decline to make any such determinations.
45. Ms. Evans testified she also thought there was an agreement to pay hydro, though she wasn't sure. Ms. Evans was not aware of any other payments that were made or agreements that were made by Chad in relation to the property. The last time Ms. Evans lived in the property was in or around 1999 or 2000.

46. Chad testified that he has lived in the rental unit since 1991, but has left during various periods. The longest time he was away was in 2013 when he stayed with friends and then was incarcerated for a period of time. Chad was absent from the family farm for a period of approximately 6-8 months at this time. During this period, while Chad's property remained in the trailer, another party moved into the trailer and rented it from Donald and Margaret. Chad moved back to the farm following this period away, but moved into the main house for a period of about 6-8 months and stayed with Margaret and Donald in the main house until sometime in 2014 when the party renting the trailer decided to vacate it.
47. Chad testified that it was Margaret and Donald that rented the trailer out during this period, and funds from the rental went directly to Margaret and Donald. Chad moved back in when that party voluntarily vacated.
48. Chad testified that there was no discussion about what rent was or anything to do with an agreement when he moved back in the trailer, and he presumed the agreement was the same.
49. Chad was inconsistent in his position as to whether this relationship was actually a tenancy, but was consistent that the foundation of his agreement with Donald and Margaret was that after paying off the trailer it would be his, and he would be permitted to live in it, essentially forever. On this basis Chad believes the Act should apply.

Analysis

50. In order for there to be a tenancy, there must actually be a tenancy agreement between the parties. Paragraph 2(1) of the Act defines a tenancy agreement in the following manner:

"tenancy agreement" means a written, oral or implied agreement between a tenant and a landlord for occupancy of a rental unit and includes a licence to occupy a rental unit; ("convention de location")

51. This has been interpreted by the Divisional Court as including relationships where there are no monetary payments of rent given the inclusive definition and reference to licences to occupy a rental unit being included in it (see *Kizemchuk v. Kizemchuk*, [2000] O.J. No. 2763 paragraphs 2-4 and *Jeffrey v. Masek*, [2006] O.J. No. 5883).
52. It is clear in this instance that there is no agreement ever entered into between Chad and Russell that could be subject to the Act. Neither party testified they had ever reached one, claimed that Chad had ever paid Russell any amount of money, or performed services on Russell's behalf. This leaves for determination the question of whether there is a tenancy agreement that Margaret (and Donald) formed with Chad.
53. The Divisional Court has recently affirmed the basic elements required of a tenancy agreement that must be agreed upon in *Fuamba et al. v. Irving et al.*, 2024 ONSC 4587 ("Fuamba") at paragraph 13, being:

"(1) the parties;

(2) a description of the premises to be rented;

(3) the commencement of the term;

(4) the duration of the term;

(5) the rent (if any); and

(6) all the material terms of the contract not being matters incident to the relation of landlord and tenant, including any covenants, exceptions or reservations. (see for example Londos Investments Ltd. v. 353573 Ontario Ltd., [1988] O.J. No. 7 (Ont. H.C.)."

54. I am not satisfied that all of the elements described in Fuamba were agreed on based on the testimony of the parties as to the discussions, conduct and relationship of the parties over the many years Chad lived in the trailer. I am also not satisfied that the parties intended to enter into an agreement that would constitute a tenancy agreement, including on the basis of a licence to occupy.

55. The only time I had evidence sufficient that Margaret (or Donald) actually intended to form an agreement with certain terms with Chad as to a tenancy was in relation to Margaret providing the intent to rent agreement pursuant to which she hoped Chad would start paying \$650.00 per month after receiving benefits, but for which Chad never made a payment. I find that there was no meeting of the minds in this instance, as it is clear on the evidence before me Chad never had any intentions of forming a tenancy relationship with his parents on the basis of paying \$650.00 per month, or making any payments on the basis of his agreement.

56. I find instead Chad had no intention to form a tenancy relationship at this time, and this document was produced only for the purposes of obtaining ODSP benefits. In accordance with section 202(1) of the Act, I find that despite any outward form of this agreement, the real substance of it was a document made in an effort to procure these benefits, and not a representation of a true intention on Chad's behalf to agree to a tenancy under which he paid \$650.00 per month. Therefore, no tenancy formed at his time.

57. Chad's own evidence was there was no discussion when he moved back into the trailer in 2014 as to what the terms of him re-occupying the trailer were. Chad simply presumed it was "the same", which in his view meant he could live in it forever and was expected to help out around the farm.

58. Margaret testified as to different and shifting expectations of any payments from Chad over the years, and that none were followed through on (though I find some hydro payments were infrequently made), and it was acknowledged that Chad did do labour on the farm until recent years.

59. I find that while the parties (Margaret, Donald, and Chad) and description of what is being rented (the trailer) are sufficiently clear, terms such as whether rent or other consideration was required and if so what that constituted, and the duration of the term were not sufficiently clear at any time that they could form a tenancy agreement. The

commencement of any term is also unclear given Chad moved in and out of the trailer, and that expectations between the parties shifted over time.

60. I make these findings as the expectations as to consideration appeared to shift over time, it is unclear what extent the labour performed on the farm was alternatively compensated directly to Chad and whether this varied, and as there never seemed to be a serious expectation that terms related to consideration would be enforced.
61. Chad's own testimony was that though there was an agreement to pay hydro, he paid it infrequently. There appeared to be no expectation from either party that this was a problem, would disentitle Chad to residence in the trailer, or that money for missed payments was now owing. Chad appears to have treated this as normal and usual. While Chad asserted that this was because sometimes Margaret told him not to bother to pay in a given month, he did not assert that was the only reason it was ever not paid and otherwise would be expected to be paid without fail.
62. Margaret asserted that this was a frustrating situation as she hoped Chad would begin to pay something. However, it was clear from Margaret's testimony that she did not feel she could enforce payment from Chad in the manner of a traditional landlord, as she considered Chad staying on the farm in the trailer as part of a familial relationship and not a tenancy.
63. Given the shifting payment arrangements over time, there does not in my view appear to be a certainty of terms over rent or other consideration, and whether any was due. Neither party appeared to treat this arrangement as one with distinct, clear, and legally enforceable terms.
64. Similarly, some particularized discussion of the term of the tenancy would be required to ground a finding that the term of the tenancy is in fact forever. While not binding upon me, I agree with the reasoning contained in *Owen v Flynt*, 2023 ONLTB 30244, that the provisions related to requiring that leases of a duration greater than 3 years be put into writing contained in the *Statute of Frauds*, R.S.O. 1990, c. S.19, are not applicable to tenancies pursuant to the Act due to the interaction of section 3(1) of the Act with the expansive definition of tenancy agreement including oral and implied agreements under the Act.
65. However, this does not mean that those oral or implied agreements do not need to be certain in their terms. The terms must be clear for both parties, and I find that just because occupation of a premises is long term, that this necessitates that the duration of term is forever, or the lifetime of an individual. There is a distinct difference between an indefinite tenancy, that renews periodically, and a tenancy with a duration of term of forever or the life of an individual. These can practically feel the same for a lengthy period of time, even decades, but fundamentally are different. It is not clear to me that either by oral agreement or by implied agreement it is clear which this relationship, if I found it to be a tenancy, would be.
66. A duration of "forever" as Chad asserts is also problematic as a term in this instance, particularly without further discussion and a concrete meeting of the minds on other terms. If the term is forever, but there is consideration due, how often is it due? Necessary ancillary terms to this would need to be discussed and established even if this in fact was

an agreed upon duration between the parties. I did not have testimony to support that any such discussions occurred in this instance.

67. I note further that while Chad asserts there was an agreement that the trailer would belong to Chad once it was paid off, it does not automatically flow from any such agreement that Chad is entitled to live on the property forever. The trailer is a chattel, and ownership of that chattel can transfer without entitlement to remain on the land for all time. The trailer may currently be affixed to the land, but the ownership of it is separate from an entitlement both for the trailer to remain on the land, and Chad's rights in this respect.
68. I find that given I cannot reasonably find the parties had a meeting of the minds as to the payment of rent or consideration, or as to the duration of the term of any tenancy, that there was also no tenancy agreement formed between Margaret and Chad (or between Margaret, Donald, and Chad). I find in accordance with section 202(1) of the Act that the real substance of this relationship is in essence a gratuitous licence in course of a familial relationship. While there was some expectation of work around the family farm that came with living there, I find that this consideration was not certain enough given the evidence of payments to Chad to form a clear basis of agreed consideration, and not given with the intent of entering into a legal relationship. This licence therefore does not qualify as a tenancy agreement under the Act.
69. I am mindful in making this finding that the definition of a tenancy agreement includes a licence to occupy pursuant to section 2(1) of the Act, and a licence is in essence a permission of use. However, in the context of a licence to occupy that qualifies as a tenancy agreement pursuant to the Act, I find that a licence still requires a certainty of terms agreed between the parties as described in *Fuamba*, an intention to enter into legal relations, and some form of consideration, even if that consideration is not in the form of monetary payments made directly to a landlord.
70. These are basic contractual principles, and whether a licence or not, section 2(1) of the Act requires tenancy agreements to be written, oral or implied *agreements*. Therefore, these contractual principles must be complied with to qualify under the definition. To find otherwise would result in absurdities.
71. For example, is a tenancy created by a parent telling their child they may stay for the week in their basement, which has its own bathroom and kitchen facilities, in exchange for cutting the lawn during their stay? If there is no requirement for an intention to create legal relations for a licence to occupy to qualify as a tenancy agreement, this would result in a tenancy subject to the Act. The terms are certain. None of the exceptions to the Act apply. Consideration is being given, though not in the form of a monetary payment. However, it is clear that generally in these circumstances the parties did not intend to create a tenancy. It cannot be correct that the child in this scenario is then entitled to stay in the basement for an indefinite period pursuant to a weekly renewing tenancy, so long as they cut the lawn.
72. By way of another example, if a homeowner's child or friend is experiencing a difficult time, and so that homeowner permits their child or friend to stay in that same basement equipped with a kitchen and bathroom for the period of a month, this is permission, or a licence, to occupy a residential unit. If nothing further were required for a licence to occupy to qualify as a tenancy agreement, this would then result in a tenancy subject to the Act.

This tenancy would automatically renew for another term on an indefinite basis, and the landlord would be entitled to receive nothing, as it was clear there was no expectation of consideration. This is clearly wrong, and on reflection, I find that is because there must be a requirement for consideration and for an intent to create legal relations for a licence to occupy to qualify as a tenancy agreement under the Act.

73. These sorts of scenarios cannot be what the Legislature intended by their non-exhaustive definition of a tenancy agreement in section 2(1) of the Act. I find it was written broadly instead to provide protection to tenants by making clear that any contract that provides for the permission of use of land rather than a traditional leasehold interest in land will not prevent the protections of the Act from applying. The fundamental terms of a tenancy agreement, consideration, and an intention to create legal relations must still apply in order for a licence to occupy to qualify as a tenancy agreement under this definition.
74. I find given the above, that the licence provided to the Tenant in this case does not meet the qualifications to be a licence to occupy that qualifies as a tenancy agreement for the reasons above.

It is ordered that:

1. The *Residential Tenancies Act, 2006* does not apply.

May 25, 2026
Date Issued

Benjamin Seigel
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.