



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

**Citation:** James v Akingbehin, 2026 ONLTB 41326

**Date:** 2026-05-25

**File Number:** LTB-T-035777-26

**In the matter of:** 706, 270 Donlands Avenue  
Toronto On M4J3R4

**Between:** Davina James Tenant

**and**

Woodgreen Community Housing Inc Landlord

Davina James (the 'Tenant') applied for an order to determine whether the *Residential Tenancies Act, 2006* (the 'Act') applies.

This application was heard by videoconference on May 21, 2026.

Only the Tenant's Legal Representative, Shala McDonald, and the Tenant attended the hearing.

As of 11:38am, the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenant's evidence.

### **Determinations:**

1. This application is about living accommodation provided to the Tenant as part of a program providing services intended to support employment and life skills development. The Tenant seeks a determination as to whether the tenancy is exempt under the Act. For the reasons that follow, I find that this tenancy is not exempt. The Act applies.
2. The definitions of “tenancy agreement”, “tenant”, “rental unit” and “landlord” found in s. 2(1) of the Act indicate that a tenancy agreement is a written, oral or implied agreement between a landlord and a tenant for occupancy of a rental unit. A tenant is someone who pays rent in return for the right to occupy a rental unit. A rental unit is any living accommodation used or intended to be used as rented residential premises. “Landlord” includes the owner of the unit.
3. In this case, it is clear that all of these definitions apply. The Landlord and Tenant entered in an agreement titled an “occupancy agreement” for occupancy of a rental unit. The Tenant pays the Landlord rent each month for the right to live in that unit. Together with this agreement, another organization provides a number of services to the Tenant in conjunction with their occupancy.

4. Pursuant to section 3(1), the Act applies with respect to all rental units despite any other Act or any agreement or waiver to the contrary.
5. Total exemptions from the Act are found in sections 5, 5.1, and 5.2. Exemptions are interpreted narrowly and the party who wishes to rely on an exemption bears the burden of proving the exemption applies.
6. The Tenant submits that the Landlord takes the position that they are exempt from the Act pursuant to section 5.1. This is disputed by the Tenant.
7. Section 5.1 states:

5.1 (1) This Act does not apply with respect to living accommodation provided to a person as part of a program described in subsection (2) if the person and the provider of the living accommodation have entered into a written agreement that complies with subsection (3).

8. The Tenant does not dispute that the living accommodation provided was part of a program described in section 5.1(2) and that all elements described in subsection (2) are met in this case. However, section 5.1(1) states that in order for the exemption to apply, the written agreement between the parties must comply with subsection (3).
9. The relevant portions of section 5.1(3) state:

(3) The agreement between the provider of the living accommodation and an occupant of the living accommodation must meet all of the following requirements:

1. The agreement must state that the provider of the living accommodation intends that the living accommodation be exempt from this Act and must also state that the occupant may apply to the Board under section 9 of this Act for a determination of whether this Act applies with respect to the living accommodation.

2. The agreement must set out the following:

i. the legal name and address of the provider of the living accommodation,

ii. the maximum period of the occupant's occupancy of the living accommodation,

iii. the circumstances under which and the process by which the occupant's occupancy of the living accommodation may be terminated by the provider of the living accommodation,

iv. the occupant's rights and responsibilities in respect of the occupant's occupancy of the living accommodation,

v. the rules that apply to the occupant's occupancy of the living accommodation,

vi. the amount of any consideration required to be paid by the occupant for the right to occupy the living accommodation, and

vii. the amount of any other charges to be paid by the occupant in conjunction with the living accommodation. [Emphasis added]

10. The Landlord's address does not appear anywhere in the occupancy agreement or any of the attached schedules. Paragraph 13 of Schedule E to the occupancy agreement provides the legal name for the Landlord and states "our address for the purposes of this Agreement and for the service of any notices from you under this Agreement is:". The line following this statement is blank.

11. While I acknowledge that the Tenant disputes that Schedule E was attached to and formed part of the occupancy agreement, and that she alleges that the Landlord forged her signature on that document, I need not make a determination on that issue in this case. This is because section 5.1(3) explicitly requires that the written agreement set out the legal address of the Landlord and, in this case, it does not. These requirements are essential in order for the exemption pursuant to section 5.1 to apply. As the occupancy agreement does not contain all of the required elements set out in section 5.1, the exemption does not apply.

12. Given all of the above, I find that the Act applies to this tenancy.

**It is ordered that:**

1. The *Residential Tenancies Act, 2006* applies to this tenancy.

**May 25, 2026**  
**Date Issued**

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Candace Aboussafy  
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.