



Order under Section 31 Residential Tenancies Act, 2006

File Number: LTB-T-009228-25

In the matter of: 774 BELMONT AVE W
KITCHENER ON N2M1P4

Between: Amira Elserafy Tenant

And

Zahib Mehtab Landlord

Amira Elserafy (the 'Tenant') applied for an order determining that Zahib Mehtab (the 'Landlord'):

- entered the rental unit illegally.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on May 25, 2026.

The Tenant, the Tenant's Representative Alishia Lavallie, the Landlord, the Landlord's daughter Malayeka Zahid and the Landlord's Representative Amanda Richards attended the hearing.

Determinations:

1. The Landlord's Representative submitted that the Act does not apply because the Landlord's daughter resides in the unit and shares a kitchen and/or bathroom with the other roommates, therefore exempting the unit under section 5(i) of the Act:

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;
2. The Landlord testified that his daughter lives in the unit as she goes to university in the area, and was living there previously to the TT moving in. His daughter's room is on the main floor and the Tenant's room was upstairs. His daughter and the other tenants shared the kitchen and a bathroom. A copy of the lease agreement for a single room, a utility bill in

the Landlord's daughter's name and text messages between the Tenant and the Landlord's daughter in which she refers to the Landlord as her dad, were submitted as evidence.

3. The Landlord's daughter MZ testified that she was attending a local school and lived in the unit in a bedroom on the main floor, sharing the kitchen with the other tenants.
4. MZ testified that she met the Tenant on the day she moved in and since that day has always referred to her father as the Landlord when speaking to the Tenant.
5. The Tenant testified that she only became aware that MZ was the Landlord's daughter once the Landlord was trying to evict her.

Analysis

6. Section 5(i) of the Act requires the tenant to share the kitchen or bathroom with the owner or the owner's immediate family. In addition, the Board must consider the living arrangements at the beginning of the tenancy and any unilateral change to the pattern of use by the Landlord after the tenancy begins will not cause a tenancy that is subject to the Act to be exempted by section 5(i) (*Cowie v. Bindlish*, [2010 O.J. No. 2193 (Ont. Div. Ct.)). The onus rests on the person seeking to rely on the exemption. In this case, that is the Landlord.
7. Based on the evidence and testimony before me, I find on a balance of probability that the Tenant was required to share the kitchen with the Landlord's daughter MZ and this means that the arrangement is exempt from the Act.
8. There is no dispute that the Landlord's daughter MZ lived in the unit in a bedroom on the main floor and had been living there prior to the Tenant moving in.
9. I find that the Landlord, MZ and the Tenant were all equally credible, they all gave their evidence in a straightforward manner. However, I am persuaded by MZ that since the Tenant moved in, she was referring to the Landlord as her father.
10. Based on the evidence of the parties, I find that the Tenant was sharing the unit with the Landlord's daughter and therefore the exemption under section 5(1) of the Act applies and the Tenant's application must be dismissed.

It is ordered that:

1. The Tenant's application is dismissed.

June 11, 2026
Date Issued

Brenda Mercer
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.