



**Order under Section 94
Residential Tenancies Act, 2006**

File Number: LTB-L-086123-25

In the matter of: B1- Basement, 1470 KING ST W
TORONTO ON M6K1J1

Between: Jacques Andriano Landlord

And

Donny Szegeny, Estate of Tenant

And

Marie Link Affected Party

Jacques Andriano (the 'Landlord') applied for an order to terminate the tenancy and evict Donny Szegeny, Estate of (the 'Tenant') because:

- the rental unit is the superintendent's premises and the Tenant's employment as superintendent has ended.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on March 12, 2026.

The Landlord: the Landlord's Agent, Elizabeth Burgess, and the Landlord's Legal Representative, Masoud Tchavoshi, attended the hearing.

Marie Link (the "Affected Party" also attended the hearing with her Legal Representative, Esrah Akasha, and support person, Melissa Urbich.

Determinations:

Preliminary issue: the Estate of Donny Szegeny was not properly represented at the hearing

1. At the start of the hearing, Marie Link explained that she was representing the Tenant. Ms. Link testified that she is currently living in the rental unit and that she lived in the unit with Mr. Szegeny before he passed away.
2. The Landlord's Legal Representative took the position that Ms. Link did not have the authority to speak on behalf of the Tenant.
3. Ms. Link's Legal Representative took the position that Ms. Link was the spouse of Mr. Szegeny, and that she had the authority to speak on behalf of his estate.
4. The Landlord's Legal Representative submitted, an email from Anthea Cheung who is counsel and team lead for the Office of the Public Guardian and Trustee, which confirms that there is no estate trustee for Mr. Szegeny, nor do they have any information about a next of kin (DOC-7554973).
5. Based on the limited evidence before me, I am not satisfied that Ms. Link has legal authority to represent the Tenant, Estate of Donny Szegeny, in this matter as it is clear from Ms. Cheung's email that there is no record of an estate trustee, nor is there a next of kin. Ms. Link was unable to provide any documentation to support that she has been appointed trustee of Mr. Szegeny's estate; rather, she made general and unsupported statements that she is his spouse. As I explain further below, I found Ms. Link to be uncredible and, therefore, absent any concrete and objective corroborating evidence, I give no weight to her testimony that she is Mr. Szegeny's spouse.
6. That said, the parties did not appear to dispute that Ms. Link is currently living in the rental unit. Therefore, I find that Ms. Link is a person who is directly affected by this application and in accordance with section 187 of the Residential Tenancies Act, 2006 (the 'Act'), I find that she is a party. Throughout the order, Ms. Link is referred to as the "Affected Party". Given her status as a party, I was satisfied it was appropriate to allow her to participate in the hearing by presenting evidence on the central issues.

Merits of the Application

7. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated.
8. The following material facts were not disputed:
 - Mr. Szegeny completed an Application to Rent the rental unit on July 24, 2009. On the second page of the application form, there is a handwritten note that says: "Mr. Donny Szegeny is superintendent at 1470 King St. West Toronto Ont. His duty remove garbage once a week, cut grass, remove snow. Rent 1,150 inclusive minus 250 for work. 900 rent to be paid."
 - Mr. Szegeny passed away on September 8, 2024
 - The Landlord only discovered that Mr. Szegeny had passed away on October 2, 2025 and terminated his employment that day.

- Before Mr. Szegeny passed away, he was living in the rental unit with the Affected Party.
 - The Affected Party continues to live in the rental unit.
 - On October 11, 2025, after the Landlord discovered that Mr. Szegeny had passed away, the Landlord sent the Affected party a letter telling her that she must vacate the rental unit.
9. At the hearing, the Affected Party raised several issues. She claimed that the rental unit is not superintendent's premises, meaning that it was her position that the eviction framework in sections 93 and 94 of the Act did not apply. She also claimed that she is a tenant because she is Mr. Szegeny's spouse and therefore fell within the expanded definition of "tenant" in s. 3 of O. Reg. [insert] after Mr. Szegeny died.

Is the rental unit superintendent's premises?

10. The Landlord and the Affected Party disagreed about whether the rental unit is superintendent's premises. The Landlord's position is that it is and the Affected Party's position is that it is not. The reason this is significant is that it determines when/how the tenancy may have terminated and whether sections 93 and 94 of the Act apply.
11. Sections 93 and 94 of the Act provide as follows:

93(1) If a landlord has entered into a tenancy agreement with respect to a superintendent's premises, unless otherwise agreed, the tenancy terminates on the day on which the employment of the tenant is terminated.

(2) A tenant shall vacate a superintendent's premises within one week after his or her tenancy is terminated.

(3) A landlord shall not charge a tenant rent or compensation or receive rent or compensation from a tenant with respect to the one-week period mentioned in subsection (2).

94 The landlord may apply to the Board for an order terminating the tenancy of a tenant of superintendent's premises and evicting the tenant if the tenant does not vacate the rental unit within one week of the termination of his or her employment.

12. While "superintendent" is not defined anywhere in the Act, "superintendent's premises" is defined in subsection 2(1) as follows:

"superintendent's premises" means a rental unit used by a person employed as a janitor, manager, security guard or superintendent and located in the residential complex with respect to which the person is so employed.

13. The definition of "superintendent's premises" is limited to employees in some categories of job but not all categories of job. The person must be employed as a janitor, manager, security guard or superintendent. In this case, the Affected Party disputed that Mr. Szegeny was employed as a superintendent.

14. The Landlord testified that Mr. Szegeny acted in a superintendent capacity before he passed away.
15. The Landlord testified that he requires vacant possession of this unit so it can be used for the sole purpose of a superintendent's premises, and he requires a new superintendent to take possession of the rental unit.
16. Elizabeth Burgess is the property manager of the residential complex. She testified and that she collects the rent sometimes and meets with the repair people if work is needed at the property, and that she has managed the property since 2023.
17. During cross examination Ms. Burgess testified that the Mr. Szegeny did somewhat act as a superintendant, and confirmed he took out the garbage, shoveled snow, and cleaned around the property.
18. On the other hand, the Affected Party testified that Mr. Szegeny has never acted in a superintendant capacity and only performed minimal duties at the residential complex which included taking out the garbage, shovelling snow, and cutting the grass when he was able to do so. The Affected Party further testified that she took over Mr. Szegeny's duties when he was unable to do so.
19. The definition of "superintendent's premises" in s. 2(1) of the Act specifically includes a unit used by a superintendent and sets no restriction on the degree to which the occupant of the superintendent's premises engages in that work whether on a full-time or part-time basis. Following a strict reading of the above definition, anyone occupying the superintendent's premises whose activities conform to some aspect of the above definition is therefore a superintendent, regardless of how little of this work that person actually performs.
20. Section 202 of the *Act* requires that in making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so, may disregard the outward form of a transaction consider the pattern of activities relating to the residential complex or the rental unit.
21. It is not disputed that Mr. Szegeny's Rental Application, specifically refers to him as the superintendent of the residential complex, it describes the work he was to perform at the residential complex and the rent was reduced by an amount that was meant to compensate him for that work. It is also not disputed that Mr. Szegeny performed the work set out in the Rental Application, even if the frequency was unclear or disputed. Regardless of the time spent doing these duties, it is clear from the definition above, that there is no set restriction on the degree to which the duties were performed and that the activities performed by Mr. Szegeny were completed in the capacity of a superintendant.
22. I also find that since the Rental Application sets out the terms of Mr. Szegeny's employment, the tenancy and the employment started together and when he took occupancy of the rental unit he was the superintendent.
23. As a result, I find that the Landlord demonstrated on a balance of probabilities that Mr. Szegeny acted in a superintendant capacity, and that Mr. Szegeny occupied a

superintendent's premises as it was clear from the agreement that was signed between the Landlord and Mr. Szegeny, that he was provided with a discounted monthly rent for his duties to act as a superintendant. In addition, it specifically states within the agreement that Mr. Szegeny would be a superintendant at the rental property.

24. Accordingly, I find that sections 93 and 94 of the Act apply and the tenancy terminated with the employment terminated on October 2, 2025.
25. Alternatively, the tenancy was deemed terminated on October 8, 2025 – 30 days after Mr. Szegeny died – pursuant to section 91 of the Act.

The Status of the Affected Party

26. The Affected Party claims that she falls within the expanded definition of “tenant” in s. 3(1) of O. Reg. 516/06, which states:

3. (1) If a tenant of a rental unit dies and the rental unit is the principal residence of the spouse of that tenant, the spouse is included in the definition of “tenant” in subsection 2 (1) of the Act unless the spouse vacates the unit within the 30-day period described in subsection 91 (1) of the Act.

27. In order for me to find that s. 3(1) of the regulation applies, I must be satisfied that the Affected Party is a spouse in s. 2(1), which states:

“spouse” means a person,

(a) to whom the person is married, or

(b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,

(i) have cohabited for at least one year,

(ii) are together the parents of a child, or

(iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*; (“conjoint”)

28. The Affected Party testified that she is the spouse of Mr. Szegeny as they have been residing together in a conjugal relationship. The Affected Party provided evidence that supported that she has been residing at the rental property since 2009, but within that documentation states she is separated and does not have a spouse.
29. When questioned about this discrepancy in the documentation, the Affected Party testified that she has never claimed being his spouse, they have always claimed to be separated on government documentation in order to receive full benefits from social assistance rather than claiming to be in common-law relationship, but they were once legally married.
30. After considering the evidence and testimony of the Affected Party, I find her to be an uncredible witness. Either the Affected Party lied on government documentation since 2009 about their marital status or she was misleading the Board about the true nature of her relationship with Mr. Szegeny. I find it difficult to reconcile the Affected Party's

evidence as it seemed that she was providing testimony to benefit herself. Ultimately, there was no clear, concrete and credible evidence that the Affected Party meets the definition of spouse in the Act. Therefore, I am not satisfied that the Affected Party falls within the expanded definition of tenant in s. 3 of O. Reg. 516/06.

31. It further was Ms. Link's testimony that she is Tenant as she is noted on a N5 which named her as a Tenant.
32. Section 2 of the Act says a tenant "includes a person who pays rent in return for the right to occupy a rental unit". However, according to the Court, the definitions in the Act, such as in respect of landlord or tenant, are broad and inclusive and should be broadly and liberally construed. The Act is remedial legislation with a tenant protection focus and an expansive, liberal approach should govern its interpretation (*Jemiola v. Firchuck*, [2005] O.J. No. 6085 at para. 9 (Ont. Div. Ct.)).
33. In relation to *Browne v. Henlet Crescent*, 2026 ONSC 455, at paragraph 28 it specially states;

There is a considerable amount of Board jurisprudence on the subject of who is a tenant and who is an occupant. In Garten v. , 2024 ONLTB 29857 at paras. 18 and 19, the Board summarizes the kind of facts that have been found to "be indicia that a tenancy agreement exists between an individual and a landlord" (emphasis in original omitted). They are that the person paid rent directly to the landlord, the person has lived in the unit for an extended period of time, the landlord permitted occupancy of the unit by the individual, the landlord has enforced its rights against the individual, the individual has enforced their rights against the landlord, the individual has requested maintenance or repair of the rental unit, the individual and the Landlord communicate on issues concerning the unit, and the landlord has identified the individual on its own internal records. There is no issue that a number of these indicia applied to Ms. Browne. She paid rent directly to the landlord, she had lived in the unit for an extended period of time, the landlord permitted her occupancy in the unit, she made maintenance and repair requests to the landlord, the landlord communicated with her on issues concerning the unit and she was identified as a tenant on one of the landlord's records.

34. I am not satisfied that Ms. Link is a Tenant within the rental unit as Ms. Link has failed to provide any evidence to support that she is a Tenant other than a N5 notice provided, and in addition, Ms. Link has failed to provide any supporting documentation to persuade me to believe she is a Tenant, such as proof of rent payments, or a lease agreement. Therefore, I am not satisfied Ms. Link is a tenant, but rather an affected party of the application.

Relief from eviction

35. I have already found that the tenancy ended on October 2, 2025, and that the Affected Party is not a tenant. The Affected Party is not entitled to continue living in the rental unit. That said, I considered whether it was appropriate to delay enforcement of eviction.

36. The Affected Party testified that she has been residing at the rental unit since sometime in 2009 and would require 3 to 6 months to vacate the rental unit.
37. The Landlord took the position that no rent has been paid since October 2025, and allowing the Affected Party further time to stay within the rental unit would cause prejudice to the Landlord. Further, the Landlord took the position that the Affected Party can reside with her daughter.
38. The Affected Party took the position that she cannot reside with her daughter as there is not enough space within her daughter's home.
39. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until July 25, 2026 pursuant to subsection 83(1)(b) of the Act to allow the occupant some additional time to find an alternative place to reside, while also considering the prejudice to the Landlord as rent has not been paid since October 2025.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Affected Party must move out of the rental unit on or before July 25, 2026.
2. If the unit is not vacated on or before July 25, 2026, then starting July 26, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after July 26, 2026.

June 30, 2026
Date Issued

Samantha Greaves
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