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ONTARIO RESIDENTIAL TENANCIES LAW

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Release No. 8, October 2026

Ontario Residential Tenancies Law, 2nd Edition provides a comprehensive annotation of Ontario's major residential tenancy laws and has been completely revised to include the new *Residential Tenancies Act, 2006*. The text features updated commentary based on the new legislation, as well as new regulations under the new *Residential Tenancies Act, 2006*. The previous *Act*[1] has also been included for ease of reference. This invaluable resource also includes Rules of practice for the new Landlord and Tenant Board, relevant Landlord/Tenant Forms and Notices, the relevant regulations and form and notices, and summaries of leading reported and unreported decisions of courts and tribunals. This publication provides the busy practitioner with a ready reference to every aspect of the law of residential tenancies with the most comprehensive case law review of the process in Ontario.

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[1] *Tenant Protection Act, 1997*.

This release features updates to the case law and commentary under the *Residential Tenancy Act*.

Highlights

- **SECTION 210.3—DECISIONS—*Nayyer v. Sorensen*—2026 CarswellOnt 11244, 2026 ONSC 3939—**Landlord brought application to terminate tenancy and evict tenant on basis that landlord required possession of rental unit for purpose of residential occupation for period of at least one year—Basis for application was that landlord, who lived in Oakville but worked in Toronto, wished to use rental unit during week because he found commuting back and forth to be stressful—Landlord's plan was to stay at unit on weekdays and live with his family in Oakville on weekends—Landlord and Tenant Board dismissed landlord's application, finding that landlord had not demonstrated genuine intention to occupy rental unit for at least one year for residential purposes because he intended to live in rental unit only on part-time basis—Landlord appealed—Appeal dismissed—Board did not err by relying on certain caselaw—Board was correct in concluding that temporary or part-time residency did not constitute "residential occupation" under s. 48(1) of *Residential Tenancies Act*, 2006—Section 210(1) of Act provides that appeals from orders of board are only on question of law—Even if part-time occupancy could constitute "residential occupation" for purpose of s. 48(1) of Act, whether it did so in this case was question of mixed fact and law from which no appeal lay.
- **SECTION 210.3—DECISIONS—*Miller Estate v. Arguelles*—2026 CarswellOnt 11636, 2026 ONCA 518—**Landlords were unit owner and manager son—Landlords sought to evict tenant so unit could be occupied by unit owner's daughter, and served tenant with notice of eviction—Understanding tenant agreed to move out, landlords made no application to act on notice—Tenant was unable to find another apartment, and refused to move—Landlords served tenant with new notice which indicated landlords were unit owner and unit manager and unit manager signed notice—Unit manager initiated eviction application, but unit owner died before hearing—Landlord and Tenant Board determined that notice to evict was valid and ordered tenant out—Board amended eviction application to estate of unit owner with no personal representative—Unit manager failed to disclose previous notice in application, and it was added—Tenant's appeal of eviction order was dismissed—Trial judge found application could be amended to reflect estate trustee, but it

was not necessary because specific individual representative of estate was not required to determine issues—Trial judge found amendment after non-disclosure was appropriate, did not prejudice tenant and was consistent with fair and expeditious proceeding—Trial judge found issue was whether notice met technical requirements of *Residential Tenancies Act*, whether landlord in good faith required possession for occupation by child when notice was given, and whether good faith obligation of landlord was maintained—Tenant appealed—Appeal allowed—It was error of law for Board and Divisional Court to declare notice valid and to amend eviction application when ss. 48 and 71.1 of Act were not complied with—Board and Divisional Court erred by enforcing notice, hearing eviction application, and ordering termination of tenancy and eviction—Act is remedial, and s. 48(1) cannot be invoked for occupation of rental unit by any individual who does not fall within listed categories—Aunt, uncle, cousin, brother, or sister of landlord or landlord's spouse do not qualify, for example—Finding that estate does not meet requirement in s. 48 that landlord must be individual was not merely matter of form, nor did it obfuscate "real substance" of transaction—Death of landlord invalidated notice and eviction—Neither son nor estate had standing under s. 48(1) of Act to continue application and terminate tenancy—Landlord's sister is not among listed individuals who may take possession under landlord's own use termination provisions—Estate was not individual and had no standing to bring eviction application—As estate was not settled, terms of will were not determinative—Addition of estate was not mere procedural matter, and amendments should not have been permitted.