



**Order under Section 31
Residential Tenancies Act, 2006**

Citation: Al Hussein v Ottawa Community Housing/Arriv Properties, 2026 ONLTB 76

Date: 2026-02-25

File Number: LTB-T-095173-24

In the matter of: E, 40 CHESTERTON DR
NEPEAN ON K2E5S9

Between: Mahmoud Al-Hussein Tenant

And

Ottawa Community Housing/Arriv Properties Landlord

Mahmoud Al Hussein (the 'Tenant') applied for an order determining that Ottawa Community Housing/Arriv Properties (the 'Landlord'):

- Failed to provide and maintain the residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards pursuant to section 29(1) subsection 1 of the *Residential Tenancies Act, 2006*. ('the Act').
- And that the landlord, superintendent or agent of the landlord has harassed, obstructed, coerced, threatened or interfered with the tenant during the tenant's occupancy of the rental unit.

This application was heard by videoconference on December 9, 2025.

The Tenant and the Landlord attended the hearing. The Landlord was represented by Gabriel Cormier and Amanda Scobie testified as a witness for the Landlord. Laila Al-Hussein, the Tenant's daughter, translated French and Arabic for the Tenant.

Board interpreter Suzanne Boland translated French and English during the proceeding.

Determinations:

Frustrated tenancy agreement

1. At the outset, the Landlord raised the issue that the tenancy agreement has been frustrated and requested an order in accordance with s. 19 of the *Residential Tenancies Act, 2006* (The Act). They stated that it applied as there had been an explosion and fire that completely destroyed E40 Chesterton Street on August 30, 2024.

2. Section 19 of the Act provides that the doctrine of frustration applies to tenancy agreements.
3. In *Barnaby v. Salamander Opportunities et al*, 2018 ONSC 5749 , the Divisional Court held that the following articulation of the test by the Board was correct, at paras 11 and 22:
 - a. an unexpected event that was **not contemplated** in the contract or foreseeable must occur.
 - b. the unexpected event cannot be self-induced or the fault of one of the parties.
 - c. the event must drastically change the nature of the contract so that it is impossible (not just difficult or expensive) to perform the obligations under the contract. The impossibility of performance must be of a long term nature and not temporary or transient.

Application

4. Both parties agreed that the explosion was unforeseeable.
5. For the second branch, the Landlord stated they believe that the fire is a result of arson, but no police report was filed or made an exhibit and nothing in the DFA Report concluded arson, and so I have no information before me to attribute fault in this case. I therefore conclude that there is no fault.
6. This case turns on the third branch of the test in determining whether the tenancy agreement was frustrated or not.
7. The Landlord referred to the Structural Engineering Assessment following a Fire by DFA Engineering Services Inc., dated December 27, 2024 found at DOC-5412276, which was marked as Exhibit 1, that the rental unit was completely destroyed by the explosion on August 30, 2024:

It is our opinion that, due to the extent of fire damage to this building, it is not feasible to repair the building, and the superstructure should be demolished to the top of the foundation and rebuilt to match the existing.

8. As a social housing provider, the Landlord could not indicate when or if the rental unit would be ever rebuilt.
9. The Tenant argued that the Landlord has a duty to repair the rental unit, pursuant to s. 20 of the Act, and that he wished to move back in when repairs were completed.
10. Based on the evidence before me, I find that the fire was unforeseen by the tenancy agreement, not the fault of any party, and that the building was destroyed beyond repair to the extent that the tenancy agreement was frustrated and thus terminated on August 30, 2024.

11. Therefore the application for the maintenance and repair of the rental unit subject to s. 20(1) of the Act cannot proceed because there is no rental unit to maintain after the explosion. The Tenant's T6 application is moot and shall be dismissed.
12. As the tenancy agreement is deemed to have ended on August 30, 2024, the Board does not have jurisdiction to determine the T2 as section 23 operates within the purview of an active tenancy agreement and the behaviour alleged by the Tenant occurred after the tenancy agreement was frustrated and terminated. Accordingly, the T2 shall also be dismissed.

It is ordered that:

1. The Tenancy is terminated as of August 30, 2024 due to an unforeseen explosion that frustrated the tenancy agreement.
2. The Tenant's applications are dismissed.

February 25 , 2026
Date Issued

Vanessa Davies
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.