



## **Order under Section 135 Residential Tenancies Act, 2006**

**Citation:** Mathew v Dreamdwell Property Management, 2026 ONLTB 31191

**File Number:** LTB-T-098749-25

**Date:** 2026-04-24

**In the matter of:** Basement, 5977 Gant Crescent  
Mississauga ON L5V2T6

**Between:** Anju Mathew Tenant  
Sarath Kuzhumbil Sasi

**And**

Dreamdwell Property Management Landlord

Anju Mathew and Sarath Kuzhumbil Sasi (the 'Tenant') applied for an order determining that Dreamdwell Property Management (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on April 14, 2026.

Only the Tenants attended the hearing.

As of 9:30 a.m., 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. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord shall pay the Tenants \$1398.00.

### **Tenants' Evidence**

2. The Tenants uncontested evidence is that they paid \$3300.00 to the Landlord on August 28, 2025 in contemplation of their tenancy on September 1, 2025:
  - \$1500.00 for last month's rent deposit (LMR)
  - \$1500.00 for first month's rent (FMR)
  - \$300 key deposit

3. On September 3, 2025, there was an electrical fire in the upper levels of the house that destroyed the whole building and rendered it uninhabitable.
4. The Tenants were forced to find residence elsewhere, and were helped by friends and the Red Cross.
5. The Landlord did not provide any alternate housing or assistance.
6. The Tenants had contents insurance with TD Insurance and received a payment of \$18,000.00 to replace their belongings. This did not include money for accommodation or rent.
7. The Landlord refunded the LMR and the key deposit (\$1800.00), but did not refund the first month's rent because they had already occupied the rental unit September 1-3, 2025.
8. The Tenants indicated that the house is presently being rebuilt, but they have ended the tenancy and are not interested in moving back. They are settled in their new home.
9. The Tenants are seeking a remedy from the Board to obtain the rest of the first month's rent from the Landlord.
10. The Landlord did not attend the hearing, so the evidence of the Tenants is unchallenged.

### The Doctrine of Frustrated Contracts

11. A contract becomes frustrated when an event that was not foreseeable by the parties prevents the contract from being performed.
12. Section 19 of the *Residential Tenancies Act* (the Act), provides that the doctrine of frustration applies to tenancy contracts.
13. Section 3 of the *Frustrated Contracts Act*, RSO 1990, c. F34 states:

3(1) The sums paid or payable to a party in pursuance of a contract before the parties were discharged,

(a) in the case of sums paid, are recoverable from the party as money received for the use of the party by whom the sums were paid; and

(b) in the case of sums payable, cease to be payable

14. In the residential tenancies context, where a tenancy agreement is frustrated, the agreement to pay rent in return for occupancy is over. Any money paid for rent for the period after frustration occurs is refundable to the tenant and no further rent is owed. (TET-67067-16 (Re), 2016 CanLII 72234 (ON LTB)).

15. The jurisprudence describes two types of frustration:

- Where the rental unit has been utterly destroyed or so seriously damaged that restoration will be very protracted and resumption of the tenancy is not reasonably foreseeable; or
  - Where an unforeseeable intervening event occurs that is not the fault of either party but so significantly changes the rights and obligations of the parties that it would be unjust to hold them to their contractual bargain. (*TST-99550-18-AM (Re)*, 2019 CanLII 87146 (ON LTB))
16. The Board in *TEL-10643-10(Re)*, 2011 CanLII 34537 (ON LTB) held that in order to successfully invoke the doctrine of frustration in the case of a tenancy agreement there must be, at a minimum, serious damage that will require a prolonged period of repair. This is determined by the facts of each case. (*Spasov v Alnapa Inc.*, 2024 ONLTB 80945).
17. I find that this case before me falls in the first category of frustration. The house was uninhabitable and it had to be rebuilt, which is a long, protracted process where the resumption of the tenancy would not necessarily be foreseeable.
18. *Barnaby v Salamander Opportunities et al*, 2018 ONSC 5749, articulated the 3 criteria of the test for frustrated contracts 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.
19. In considering the *Barnaby v Salamander* test, there is a line of authorities at the Board that finds having insurance means that the fire was contemplated by the parties and no frustration occurred (*Haberman v Grinsaft*, 2020 CanLII 119023 (ON LTB); *Matinet v Thunder Bay District Social Services Administration Board*, 2023 ONLTB 26359; *Vignan v Mancini*, 2025 ONLTB 62074 (CanLII)).
20. I am not bound by these decisions and, given insurance is a requirement of most tenancy agreements for unforeseeable circumstances, I do not find constructive to conclude that merely having insurance means a contract is not frustrated.
21. Therefore, I find the first branch of the test is met: the electrical fire was unforeseeable event that rendered the rental unit uninhabitable.
22. Secondly, I find that the fire was not the fault of the parties.
23. I accept the Tenant's evidence that the fire drastically changed the nature of the contract so that it was difficult to perform for a time because the house was uninhabitable and rebuilding may not have been foreseeable by the parties.
24. Therefore, I find that the fire was an unforeseeable event that frustrated the contract and terminated the tenancy on September 3, 2025.

25. Pursuant to section 3(1)(a) of the *Frustrated Contracts Act*, I find that the unused portion of the first month's rent paid by the Tenants is recoverable.
26. The Landlord's proactively returning the deposits indicate to me that they deemed the tenancy to be terminated on September 3, 2025 and should have refunded the rest of September's rent.
27. The Tenants are entitled to the rest of the rent they paid prorated for September 4-30, 2025, in the amount of \$1350.00.

**It is ordered that:**

1. The Landlord pay the Tenants the total amount of \$1398.00. This amount represents:
  - \$1350 rent pro-rated for September 4-30, 2025
  - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by May 3, 2026.
3. If the Landlord does not pay the Tenant the full amount owing by May 3, 2026, the Landlord will owe interest. This will be simple interest calculated from May 4, 2026 at 4.00% annually on the balance outstanding.
4. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

**April 24, 2026**  
**Date Issued**

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Vanessa Davies  
Member, Landlord and Tenant Board