



Order under Section 31 Residential Tenancies Act, 2006

Citation: MZOUGH v Burwell, 2026 ONLTB 37219

Date: 2026-06-09

File Number: LTB-T-047067-25, LTB-T-058721-24

In the matter of: 3, 1375 LEIGHLAND RD
BURLINGTON ON L7R3S6

Between: JIHANE MZOUGH
FIRAS ALSOUDANI Tenants

And

COURTNEY BURWELL Landlords
CAMERON BURWELL

JIHANE MZOUGH and Firas Alsoudani (the 'Tenants') applied for an order determining that Courtney Burwell and Cameron Burwell (the 'Landlords'):

- substantially interfered with the Tenants' reasonable enjoyment of the rental unit or residential complex (T2 application); and.
- failed to meet their maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards (T6 application)

This application was continued by videoconference on May 5, 2026.

The Landlords and the Tenants attended the hearing. Mr. Warren Burwell appeared as a witness for the Landlords.

This was an FLS hearing. Board Interpreter Manuel Costa provided French and English interpretation services.

Determinations:

1. The Tenants allege the Landlords breached their obligations under subsection 20(1) of the Act with respect to a flood in the rental unit, which substantially interfered with their reasonable enjoyment of the rental unit.

Landlord's legal obligations to repair

2. Subsection 20(1) of the Act states:

A landlord is responsible for providing and maintaining a 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.

3. It is important to note that subsection 20(1) of the Act does not contain an element of fault. Therefore, the reasons for a landlord's breach are not relevant. In *Onyskiw v. CJM Property Management Ltd.* 2016 ONCA 477 (CanLII), however, the Court of Appeal rejected the idea that any service interruption amounts to an automatic breach of the Act. Instead, the Court urged the Board to make a "contextual analysis" in each case, looking at all the facts before finding that a landlord breached the Act. As part of this analysis, the Court directed the Board to look at the essential nature of a tenant's complaints and what steps, if any, were taken by the landlord.
4. [Subsection 30\(2\)](#) of the [Act](#) states: "In determining the remedy under this section, the Board shall consider whether the tenant or former tenant advised the landlord of the alleged breaches before applying to the Board." This section of the Act was intended to reflect the case law in the area that basically states that if a landlord does not know about a particular disrepair problem, then the landlord cannot and should not be held financially liable for failing to address it.
5. Additionally, in accordance with section 16 of the Act, when a landlord becomes liable to pay any amount as a result of a breach of subsection 20(1), the tenant has a duty to take reasonable steps to minimize the loss.
6. In determining whether the Landlords have breached their obligation to repair and maintain, the Board must first consider whether a maintenance or repair issue existed. The Board must then consider when the Landlords were informed of the issue or should reasonably have been aware of the issue and whether the steps taken by the Landlords to address the issue were reasonable in the circumstances.
7. There seems to be no dispute that the Tenants reported the basement flooded on July 15, 2024. As explained above, a disrepair issue is not an automatic breach of a landlord's obligation under subsection 20(1). The issue to be determined is whether the steps the Landlords took to address the issue were reasonable in the circumstance. I am satisfied they were.
8. The evidence before me establishes that the Landlords immediately attended the rental unit on July 15, 2024 to assess the flood in the basement. The Landlords removed and replaced the carpets, flooring, and under pads and set up fans and dehumidifiers to dry out the basement. New flooring was installed in the bedroom and living room. In my view, the steps taken by the Landlords were appropriate and timely.
9. The Tenants seem to suggest that the Landlords ought to have known that the basement would have flooded because they had reported leaks from the basement ceiling, flooding

in the laundry room due to the lack of an adequate drainage system, and a leak in the kitchen. As the applicants, the onus is on the Tenants to prove their claim on a balance of probabilities. I find the Tenants have failed to sufficiently establish that the basement flood was due to a leak in the basement ceiling, the lack of a drainage system in the laundry room, or a leak in the kitchen.

10. There is no dispute that there was a significant storm in the Hamilton-Burlington area and the region experienced severe flooding on July 15, 2024. The Landlords admitted into evidence several newspaper clippings and city documents indicating the sudden flood in the region was unforeseeable and overwhelmed municipal infrastructure. Landlord Courtney Burwell testified that hundreds of homes in the region had been damaged in the storm and that the City was working to rectify the infrastructure.
11. Based on the evidence before me, I find that the flooding in the basement was the result of storm waters and not due to an unresolved maintenance issue. I find the Landlords acted promptly and appropriately in addressing the flood. Accordingly, the Landlords have not breached their obligations under subsection 20(1) of the Act. The Tenants' applications are therefore dismissed.
12. The Tenants seem to take issue with the fact that their furniture and personal belongings were damaged in the flood waters. As the storm and resulting flooding was not reasonably foreseeable, the Landlords cannot be held financially liable for such damage and loss.

It is ordered that:

1. The Tenants' applications are dismissed.

June 09, 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