



Order under Section 30  
**Residential Tenancies Act, 2006**

**File Number:** EAT-97089-21

**In the matter of:** A, 401 6TH STREET EAST  
CORNWALL ON K6H2P2

**Between:** Jason Fortier Tenant  
  
**and**  
  
Mohammed Raffi Landlord

Jason Fortier (the 'Tenant') applied for an order determining that Mohammed Raffi (the 'Landlord') failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

This application was heard in video conference room 104 on October 26, 2021.

The Tenant, the Tenant's representative, K. Ying, the Landlord and the Landlord's representative, D. Sabourin, attended the hearing.

**Determinations:**

1. On March 6, 2021, a fire occurred at the residential complex. The Landlord agreed at the hearing that the rental unit has not been habitable since the fire. The Landlord further agreed that the Tenant is not required to pay rent from March 7, 2021 until the property is repaired and the rental unit habitable.
2. The Landlord's representative argued that the tenancy agreement between the parties has been frustrated. I find, however, that although the rental unit was uninhabitable as of the hearing date, the property nevertheless continues to exist and is capable of being restored. Indeed, the Landlord's own testimony describes his efforts to work with insurance companies and to find available contractors and materials to repair and restore the property. I therefore conclude that the tenancy agreement between the parties has not been frustrated. The Tenant remains a party to the tenancy agreement and has the right to re-occupy the rental unit at the monthly rent as of March 2021, upon completion of repairs.
3. At the hearing, the Tenant gave evidence of the hardship he has experienced since March 6, 2021. The Tenant does not have accommodation of his own and has been living as a guest with a friend. The Tenant described arguments and increasing tension with his friend arising in part from the Tenant's pet dog and ongoing stay at his friend's home. The Tenant testified that the living arrangement is not sustainable and is expected to end soon. The Tenant's representative therefore requested an order requiring the Landlord to complete repairs to the rental unit in two weeks.

4. The Landlord testified that he has encountered delays in finding contractors and material to undertake the extensive repairs that will be necessary to restore the property. The Landlord testified that the residential complex suffered structural damage from the March 6, 2021 fire and described having to demolish the rental unit's kitchen and bathroom as part of the initial work following the fire. The Landlord also described the floors in the rental unit as having sunk approximately two inches.
5. The Landlord's evidence is that the damage to the property is significant. The Landlord estimated the work to repair the property may be completed within three months, if materials and labour are available, but no evidence was given to determine when those conditions will be met.
6. In the circumstances, I find it is not appropriate to order the Landlord to repair the rental unit in two weeks. The Tenant did not adduce evidence to determine that the apparent delay in repairing the residential complex has been unreasonable. However, the Landlord cannot be given an infinite amount of time to complete the repairs. I therefore conclude it is appropriate to order the Landlord to repair the property and have it available for the Tenant to re-occupy on or before March 31, 2022.
7. The Tenant did not prove that it is appropriate to order the Landlord to pay the Tenant \$2,000.00 in damages for pain and suffering. Although I accept the Tenant's testimony of the hardship he has endured since March 6, 2021, there is no evidence that the Landlord caused or has materially contributed to the Tenant's circumstances and is liable for damages. In arriving at this conclusion, I am mindful of the decision in *Onyskiw v. CJM Property Management Ltd.* [2016] O.J. No. 3817 (C.A.), where the landlord in that case was not held liable for failing to repair elevators when elevator repair contractors were unavailable.

**It is ordered that:**

1. The Tenant's obligation to pay rent to the Landlord is suspended as of March 7, 2021 and shall continue until the Tenant is able to re-occupy the rental unit. The Tenant shall be required to pay rent to the Landlord starting on the day the Tenant is able to re-occupy the rental unit.
2. On or before March 31, 2022, the Landlord shall repair the rental unit and provide the rental unit to the Tenant for the Tenant's residential use at the monthly rent the Tenant paid in March 2021.
3. The Landlord shall pay the Tenant \$53.00 for the cost of filing the application.
4. The Landlord shall pay the Tenant the full amount owing by November 27, 2021.
5. If the Landlord does not pay the Tenant the full amount owing by November 27, 2021 the Landlord will owe interest. This will be simple interest calculated from November 28, 2021 at 2.00% annually on the outstanding balance.



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Harry Cho  
Member, Landlord and Tenant Board

**November 16, 2021**

**Date Issued**

Eastern-RO  
255 Albert Street, 4th Floor  
Ottawa ON K1P6A9

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.