

Residential Tenancies Tribunal

Application 2022-0819-NL

Decision 22-0819-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:13 a.m. on 01-November-2022. This hearing was reconvened at 3:13 p.m. 01-November-2022 and 2:00 p.m. 02-November-2022.
2. The applicant, [REDACTED] are represented by [REDACTED] and [REDACTED], hereinafter referred to as “the landlord” and “the authorized representative” (LL#06) both attended by teleconference at all three hearing times.
3. The respondents, [REDACTED] and [REDACTED], are represented by [REDACTED] [REDACTED], who is hereinafter referred to as “the tenant” he attended by teleconference for the first and second part of the hearing and declined to attend on the third hearing time.

Preliminary Matters

4. The landlord submitted an affidavit (LL#01) stating that they served the tenant, on 14-October-2022, with notification of the hearing electronically to the email provided on the rental agreement (LL#02), [REDACTED]. The tenant confirmed receipt of service as stated and said that the other tenant will not be attending and that he will represent the respondents.
5. The authorized representative amended the application to increase compensation for damages from \$18,440.00 to \$25,282.50 to reflect the cost of the ongoing repairs.

Issues before the Tribunal

6. The landlords are seeking:
 - Compensation for damages \$25,282.50
 - Possession returned/compensated \$6,420.00
 - Hearing expenses \$20.00

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 10: Statutory Conditions, as well as, Residential Tenancies Policy 009.

Issue 1: Compensation for damages \$25,282.50

Landlord's Position

9. The landlord provided the written rental agreement (LL#02) that was held with the tenants. He stated that the tenants were renting a three bedroom house with a two bedrooms in the basement apartment. It was determined that the tenants had use of the full house and apartment. They had a monthly agreement and the tenants moved in on 20-March-2021. Rent was \$1,300.00 a month which includes utilities and the house is furnished. The rental period is from the 20th of each month until the 19th of the next month with rent due on the 19th day of every month. The tenants paid a security deposit of \$1,300.00 which has been allocated in a previous award (2022-0504-NL).
10. The landlord submitted a prior order for possession dated 29-July-2022 (2022-0504-NL) (LL#08) as well as, a text from the tenants (LL#08). In the text provided, the tenant identified himself and states on 27-July-2022 that they will be moved by 10-August-2022. Then on 08-August-2022 at 5:19 p.m. the tenant texts that they are out and had moved on 06-August-2022. The tenant said in the text "So she is all yours, don't expect the place to be clean either, we took our stuff and left, and we'll (sic) the rest you can sort through." The landlord said that his staff went up to the house then next morning between 9:00 – 10:00 to deal with what was left behind.
11. The landlord said that he has a number of properties. He said the quality of the properties vary but this was his best property. He said that he and the staff referred to it as his "Cadillac house" he said now, with the damages, the house will never be the same. He is going to put it on the market to sell when it is finished and that he expects he will take a loss on the selling price because of what has been done.
12. The authorized representative said that the house was fully renovated in 2014 upstairs and part of downstairs. The previous owner ran out of money and the house was sold to the landlord in 2015. She said at that time, in 2015, the renovation was completed. She said because of this renovation, just about every damaged item is dated for 2014 or 2015.
13. The authorized representative said that there wasn't a condition report completed when the tenants moved in, however the house was for sale and the listing pictures, showing the condition of the house, are included (LL#08). She said that the pictures were taken two months before the tenants moved in and no one lived in the house during that time. As the tenants moved out after being issued an order to vacate (2022-0504-NL) and they informed the landlord that they were gone after they had moved, there was no walk through done at that time. The landlord said his staff went in the next morning and the damage pictures provided (LL#08) were taken at that time.

14. The landlord said that the tenant had claimed there was a break in and that this is when the damages occurred. The landlord said that he has a neighbor and the neighbor owns a number of homes around this rental. He said that you can see those homes in the background of the outside pictures (LL#08) and that they are close to each other. The landlord said that the neighbor said there was no one around the house but the tenant and his family. The neighbor also said that the landlord would have a lot of work to do to get the place cleaned up. The authorized representative said she went in to the house four weeks after the tenants had moved, the carpet and garbage had all been removed and the smell was still present.

15. The landlord submitted the following list of damages (LL#03) and compensation claimed for each:

i.	Range microwave	250.00
ii.	Front storm door screen	75.00
iii.	Front closet door	40.00
iv.	Front entrance hole	200.00
v.	Front entrance ceiling light (1/2) missing	80.00
vi.	Living room hole in wall 2" x 3"	75.00
vii.	Dining room hole in wall 4" x 4"	75.00
viii.	Dining room hole in wall 4" x 5"	75.00
ix.	Kitchen bottom cabinet – sink unit	450.00
x.	Kitchen table – black round	200.00
xi.	Living room loveseat	300.00
xii.	Living room coffee table and matching 2 end tables	150.00
xiii.	Bedroom 1 ceiling light fixture (1/2) missing	80.00
xiv.	Bedroom 1 queen box spring and mattress	800.00
xv.	Bedroom 1 closet hole 5" x 8"	75.00
xvi.	Bedroom 1 wall hole 2' x 2"	75.00
xvii.	Bedroom 1 9 large nail holes	75.00
xviii.	Bedroom 2 window crank handle	40.00
xix.	Bedroom 2 queen box spring and mattress	800.00
xx.	Master bedroom 1 dark night stand	50.00
xxi.	Bathroom: shower faucet	200.00
xxii.	Patio – back deck- 3 broken railings	30.00
xxiii.	Basement door from kitchen	200.00
xxiv.	Basement staircase (69 holes)	500.00
xxv.	Basement apartment	***
xxvi.	Downstairs living room sofa	250.00
xxvii.	Downstairs living room end tables	100.00
xxviii.	Hole in entry door	200.00
xxix.	Back entrance door, frame and lock destroyed	1000.00
xxx.	4 electrical baseboard heaters disconnected	300.00
xxxi.	Holes in wall 3' x 3', 1" x 1", 2 cm 3' x 3" and dent /hole	325.00
xxxii.	5 broken ceiling light fixtures	400.00
xxxiii.	Flooring carpet living room 10 x 16	800.00
xxxiv.	Flooring carpet hall 4 x 24	480.00

xxxv.	Hall pine wood wall hole 2" x 24", 2" x 20", 1 large nail hole	1000.00
xxxvi.	Electrical panel door replacement and move plugs and switches	2200.00
xxvii.	Sliding door cover for electrical panel	150.00
xxviii.	Bedroom 1: door and frame	300.00
xxxix.	Bedroom 1 window trim, 3 hole, 2 1/4" x 3 ft	20.00
xl.	Bedroom 1 flooring 8' x 12'	480.00
xli.	Bedroom 1 pine wall – 2 ft sq, 8 holes 2" x 4", 2" x 1" 3" x14",	1000.00
xlii.	Bedroom 2 flooring 11' x 11'	605.00
xliii.	Bedroom 2 pine wall holes 6" x 24", 12"x 36", 8" x 24"	1000.00
xliv.	Bedroom 2 door and door frame	300.00
xlv.	Bedroom ceiling light fixture (1/2 missing)	80.00
xlvi.	Vanity light (1/2 missing)	80.00
xlvii.	Bathroom ceiling exhaust fan (1/2 missing)	250.00
xlviii.	Cleaning services	400.00
xlix.	Labor to remove items from home and dumping charges	2,885.48
I.	Labor for painting and plaster	1,350.00
II.	General labor	5,267.50
III.	Electrical labor	3,737.50

16. The authorized representative said that they are claiming \$250.00 for the microwave she said that the handle is broken off. She provided a before and after picture (LL#08) and a quote for \$395.00 (LL#05). She said that the microwave was new in 2014.

17. The authorized representative said that the screen was out of the front door they are claiming \$75.00 to replace and repair the screen. She said that they couldn't buy a screen for the door, so they found a quote for the door itself for \$349.60. The landlord said that the front door was 4 years old. The landlord reconsidered and said that the screen is damaged in the door.

18. The authorized representative is seeking \$40.00 for the front closet door she said that the door was damaged and needed to be replaced. They didn't submit a picture (LL#08) and the landlord chose to waive this cost.

19. The authorized representative said that there are holes throughout the house and they submitted pictures (LL#08). She said that they would like to make note that there are approximately 127 holes in the home. They have submitted a separate quote for the repair all the holes (LL#05). Repair of the holes is for time to plaster. The cost of sheet rock, plaster and primer/sealer is additional totaling \$212.23. The landlord has the following list of holes, that are shown in the pictures (LL#08):

- Iv. Front entrance \$200.00
- Vi. Living room 75.00
- VII. Dining room 75.00
- VIII. Dining room 75.00
- XV Bedroom closet hole 75.00
- XVI. Bedroom 1 75.00
- XVIII. Bedroom 1 9 large nail holes 75.00
- XXV Basement staircase 500.00
- XXXI holes and dent in wall basement.....325.00
- Total.....\$1,475.00

20. The authorized representative said that the house was painted in 2014 & 2015. She states that she knows that the house was due to be painted, however, with the number of holes and the amount of patch work, the house had to be painted due to the damages. The landlord said that he estimates that the time for these repairs is a 70/30 split, 70% for plaster and 30 % for painting. His employee logged 30 hours and the authorized representative requested an amendment of the addition of a further 24 hours for a total of 54 hours or \$1,350.00 labor. According to the quote therefore 37.8 hours for plastering and finish work and 16.2 hours painting. The quote is \$1,209.95 for supplies: \$212.23 for plastering and sheet rock and \$997.77 for paint + taxes.

21. The landlord said that the light fixtures were taken down in the house. He said that they were left in the bathroom upstairs and on a couch downstairs, he said that the stems and bolts were missing. He said that they had to replace the light fixtures. The authorized representative listed the light fixtures in the table in paragraph 15 and that the ceiling bases are shown in the pictures (LL#08). She provide quotes for the replacements (LL#07) as well as, the quote for the bathroom vanity light. She said that the upstairs lights are 2014 and the downstairs lights were new in 2015. The ceiling lights are \$63.23 taxes included and the bathroom vanity light is \$148.35. The lights are as follows:

- V. front entrance \$80.00
- XIII. Bedroom 1 \$80.00
- XXXI 5 basement ceiling \$400.00
- XLIII Bedroom 2..... \$80.00
- XLIV bathroom vanity light \$80.00
- Total \$720.00

22. In addition to the lights the landlord also paid the electrician to replace the heaters. The landlord said some of the heaters are disconnected and some are missing. They have pictures of them off the wall. (LL#08) He said that there were 6 heaters that had to be put back on the wall, there was dummy switches put over units and the wiring was changed around. The authorized representative said that they went with an electrician who gave a list for the labor and for them to pay for the parts. They had to purchase 4 new heaters but six had to be reconnected to the wall (LL#05). The authorized representative said that the heaters were new to the apartment in 2015. They are seeking \$300.00 for this expense.

23. The landlord said that the exhaust fan was missing in the bathroom, this also was replaced by the electrician. They are submitted an estimate of \$181.22 for the cost of the fan. Pictures included (LL#08) and electrician's quote (LL#05).
24. The electrician also replaced the electrical panel, the door to the electrical panel was off and the electrician said that this wouldn't pass inspection with the door off. The electrician couldn't match the door and had to replace the entire unit. The landlord submitted the quote for the panel at \$639.00. The landlord is seeking compensation for the cost of the electrician for all of the electrical work including, installing the lights, the baseboard heaters and the new panel, totaling \$3,737.50.
25. The landlord submitted a picture of the kitchen cabinets (LL#08), it shows that the cupboard door in front of the sink has been broken into two pieces. He said that the cupboards were new in 2014. He said that he has checked with the cabinet company and that the cupboards cannot be matched. He said that the kitchen will never look the same again and will now have mismatched cupboards. The authorized representative submitted a quote (LL#05) of \$502.55, they are requesting \$450.00 for this repair.
26. The landlord also submitted pictures of the kitchen table prior to occupancy (LL#08) and after it has been damaged. The authorized representative said that the top was broken. They are seeking \$200.00, they have provided a quote for a replacement of \$517.49 (LL#05). She said that the table is new in 2015.
27. The authorized representative said that upstairs the love seat was still there but that the couch is missing. She said that the love seat is damaged. The landlord said that when the staff went in that there was a terrible smell. He said the staff had to wear disposable suits and masks, because the smell was so bad. Any furniture and the carpet that had soft surfaces all had to be disposed of. The furniture left behind, but with a smell too offensive to use are as follows:
 - Xi loveseat \$300.00
 - Xiv , Xix 2 queen box spring and mattress 1,600.00
 - Xxxiii, xxxiv, xxxix, xlii carpet 2365.00
 - Total \$4,115.00

The landlord said he is unsure of the age of the loveseat, the authorized representative estimates 15 years and they provided a replacement quote of \$2,506.97 (LL#05). The landlord said that one of the box spring and mattresses are 3 years old. The authorized representative removed the request for the sofa listed in Xxvi because it is in excess of 25 years old and she knows it will have no monetary value. The authorized representative said that the other mattress is about 10 years old, she provided an estimate for replacement of \$1,011.94 each. There are pictures provided showing cigarette ashes and cigarettes ground into the carpet (LL#08), the authorized representative said that the carpet was put in new in 2014 and they provided an estimate from Cohen's for \$3,627.45.

28. The authorized representative said that they provided a picture of the coffee and end tables not damaged and then a picture of the set with damages. The landlord said that the legs are broken off the coffee table. The authorized representative provided a replacement quote of \$724.49 (LL#05). She believes that they are 15 years old and they are seeking \$150.00 for replacement. The authorized representative is saying that the surface of the end tables are damaged and there is a leg broken off the coffee table.
29. The authorized representative said that the window crank is missing. She provided a quote for a replacement \$38.69.
30. The authorized representative said that there was a damaged night stand and the other is missing. Her evidence shows both stands (LL#08) and she has changed her claim to just claim damages. She said that they are 10-15 years old and they are solid wood; she provided a receipt for replacement of (LL#05) \$494.49. They are requesting \$50.00.
31. The authorized representative said that the faucet is off the upstairs bathroom. They are seeking \$200.00 and provided a quote for replacement of \$159.85. She said that the shower head was put in new in 2015. She said that she didn't provide a picture and that the pictures provided are of the downstairs bathroom.
32. The authorized representative said that there is a picture showing the broken railing. (LL#08). She provided a quote of 3 rails at \$2.98 each and \$20.00 for labor which is included in general labor. The landlord said that this is for less than an hour's labor. They are seeking \$30.00.
33. The authorized representative said that the door from the basement to the kitchen was broken and off. At this time she said most of the doors were off and damaged. She said that the doors are new in 2014 or 2015. She provided a pictures (LL#08) and there is a quote for \$235.75 per door (LL#05). Two of the doors also required the door frame to be replaced. They have listed the following doors:

• Xxiii basement door	\$200.00
• Xxviii entry door	200.00
• Xxxviii bedroom 1 door and frame	300.00
• XI window trim.....	20.00
• Xliv bedroom 2 door and frame	<u>300.00</u>
• Total	<u>\$1,020.00</u>

34. The authorized representative said that the broken end tables are in the basement however there was a picture provided of one behind a hutch, they are requesting \$100.00. She said that the tables are about 20 years old. She provided a quote for \$205.99 each.

35. According to the landlord the back entrance door appears to be kicked in, the door is completely off the frame. They provided a picture (LL#08). The landlord is unable to determine the age of the door. He said that the former owner probably put it in when renovating the apartment in 2015. They have applied for \$1,000.00 and provided a quote for \$619.00 and the knob \$19.97. (LL#05)

36. The authorized representative said that most of the basement was done with a pine wall in 2015. There are holes in the hallway (xxxv), bedroom 1 (xl) and bedroom 2 (xliv) they estimated that each of these rooms will cost \$1,000.00 each to repair. They have provided pictures of the damages (LL#08) and a quote (LL#07). The quote is for \$1,297.20 x 2 for supplies and \$2,070.00 for labor for a total of \$4,664.40.

37. The landlord said that in addition to the replacement of the electrical panel in paragraph 24. The decorative panel was also off and they are seeking \$150.00 for the cost of the replacement. They supplied the cost for the sliding door (LL#05) for \$56.33 + the cost of labor.

38. The authorized representative said that they are claiming \$400.00 cleaning services as well as another \$200.00 that is expected to be charged for the remainder of the cleaning. She said that they don't have a receipt, but they are claiming \$600.00.

39. The authorized representative is claiming for 52 hours employee time at \$35.00 an hour for a total of \$1,820.00 for clean-up and disposal including 2 dump trips to [REDACTED] [REDACTED]. They are also claiming the disposal fees totaling \$165.48 and mileage for two trips to the dump at 600 kms @ \$1.50 for the truck and trailer \$900.00. For a total of \$2,885.48. She said that they have to use [REDACTED] because the [REDACTED] dump is residential and they are considered to be a business.

40. The authorized representative is also claiming general maintenance, repairs, initially they had claimed 95.5 hours and she amended this to add an additional 55 hours as the staff are still in there finishing up; this cost would total \$5,267.50. In addition to this they are seeking mileage for the truck and trailer for 10 days from [REDACTED] where the business is located to [REDACTED] where the house is located: 10 days @ 175 km per day @ .90 = \$1,575.00

Tenant's Position

41. The tenant agrees with the terms of the rental agreement as stated. He said that they actually moved on 04-August-2022 and that the text saying that they moved on 06-August-2022 must have been a typo.
42. The tenant said that he believes that the house must have been broken into between the time he moved out and the time that the landlord took over. He said that the back door is damaged. He said that based on the pictures, he feels like a group of teenagers must have went in and had a party. He said that he contacted the RCMP and they told him that the landlord owns the house so he would have to report the damages. The tenant said he told the landlord he should call the RCMP but the landlord had decided to go with a Residential Tenancies complaint instead.
43. The tenant said that, a few weeks after he moved in, the handle came off the microwave in his hand. He said he didn't report to the landlord about that damage.
44. The tenant said that the screen was in the door when they left and that the picture in evidence (LL#08) shows the screen is in the door.
45. The tenant acknowledges that he accidentally caused the hole in the porch when moving out.
46. The tenant said that when he moved he took the shades off the lights to take back his light bulbs. He said he laid the light shades in the bathroom.
47. The tenant said he doesn't know what happened to the kitchen cupboards, that they were fine when he left. He also disputes that the cupboards are at least 10 years old not new in 2014. He thinks that there should be a criminal investigation and that there should be finger prints taken.
48. The tenant said that he agrees that the table is about 7 years old. He said that the last time the kitchen table was used it was upstairs in the kitchen and that they did not do any damage to the table.
49. The tenant said that the landlord picks up used furniture to furnish the properties, he said he estimates the love seat to be over 20 years old. The tenant said that the beds in the house are all double beds not queen. He said that there are 4 double beds and one single. The mattresses are not pillow top and are about 15 years old. He also said that the carpet downstairs is about 30 years old.
50. The tenant said that the legs on the coffee and end tables in the picture are not broken and he said that the picture doesn't show the damages to the surface of the tables.
51. The tenant doesn't dispute that the window crank is not there, he said it wasn't there when they moved in.
52. The tenant disputes that there was damages to the night stand and he said that they are about 30 years old. He also says that they claimed that one is missing and then they provided a picture (LL#08) showing two in a picture.

53. The tenant disputes that they would take a faucet or handle off the bathtub. He said that the pictures provided show a shower head on each picture. There was no issue with the faucet when he left.
54. The tenant said that they had stuff stolen off their patio and that there was a police report filed, at the time the patio was damaged. He couldn't remember if this was reported to the landlord.
55. The tenant disputes damages to the doors, he said that the doors are there in the basement on their sides in the hallway. He said that the doors are there and that they were fine when they moved.
56. The tenant said that the end tables are very old and that they were scratched and had gouges when they moved in.
57. The tenant has stated throughout the hearing that he believes the house was broken into. He is disputing that the door has been kicked in. He said he has been back to the house and that the door is intact and it has the same door handle.
58. The tenant said that it doesn't make sense that they would disconnect heaters while they were there in the winter. He said his new place has heaters, so why would they take heaters from the house? He said that none of this makes sense.
59. The tenant said that he doesn't agree that the landlord couldn't replace the door to the electrical panel, he said that you can buy new doors.
60. The tenant disputes the hourly rate the landlord is claiming for his employees and believes that the rate should be closer to \$16.00 an hour and that they are already on payroll and hired to do this type of work.
61. The tenant objects because the landlord is renovating the whole house, and he believes that the landlord is doing it on his dime. He doesn't agree that the landlord should be renovating the entire house. He said that the landlord is blaming him for the damages and that it doesn't make sense that he would do these things.

Analysis

62. Under Section 10.(1)2. of the *Residential Tenancies Act, 2018* the tenant is responsible to keep the premises clean and to repair any damage caused by a willful or negligent act.

Statutory conditions

10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:

2. Obligation of the Tenant - The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.

Accordingly, in any damage claim, the applicant is required to show:

That the damage exists;
That the respondent is responsible for the damage, through a willful or negligent act;
The value to repair or replace the damaged item(s)

In accordance with Residential Tenancies policy 9-3, the adjudicator must consider depreciation when determining the value of damaged property. Life expectancy of property is covered in Residential tenancies policy 9-6.

63. The landlord and authorized representative provided pictures showing the house prior to the tenant's moving in, the home is clean and well maintained in the pictures. The pictures after the landlord regains possession are of a home that has been absolutely destroyed. The tenant said that there must have been a break in and that teenagers probably destroyed the place while having a party.
64. Both parties agree that the tenant moved out and gave the landlord notice of the move on 08-August-2022. The tenant said he moved on 04-August-2022, his text states 06-August-2022, nonetheless the house did sit empty for a few days. The landlord did check with the neighbor and was told that the only people who were present at the house was the tenant and his family.
65. Based on the balance of probabilities it would appear that the tenants are responsible for the damages in the home. The completeness of the damages, even down to the damages to electrical, were time consuming and done with malleolus. Even in the unlikely event, if the tenants did not do the damages, the damages still occurred while they were in possession of the home. The landlord was told he would get possession of the home on 10-August-2022 and then the tenant sent him notification that they had moved on 08-August-2022; the landlord's staff were there first thing in the morning. If the home was destroyed by party goers it was done while the tenant was still in possession of the home and therefore his responsibility. The tenant could have mitigated this loss had he handed back possession and completed an inspection in an appropriate manner that protects the rights and responsibilities of both parties, instead of the actions he chose to take.
66. The landlord is seeking compensation for the microwave the quote for a replacement is \$395.00 the microwave is 8 years old. A microwave should last 10 years with regular use and therefore has lasted for most of its life expectancy. I find that the tenant will reimburse the landlord for the remaining life of $2/10 \times \$395.00 = \79.00 .
67. The landlord had applied for the cost of the screen door replacement of \$349.60. The authorized representative said that she couldn't find a quote for the cost of replacing just the screen which she believes will be \$75.00 so she submitted the cost of the door. She said that the screen is missing. The tenant points out that the screen is still in the door and the landlord then said he meant to say it was damaged not missing. The landlord has failed to show that this damage exists and this claim fails.
68. The authorized representative said that there are 127 holes in the walls of the house. She applied for both the repair of the holes as well as the painting of the home. The house was painted 7 years ago, and according to our policy paint should last 5 years. I acknowledge that the home would have to be painted to cover the plaster, however, the paint has outlived its life expectancy and it is the cost of the landlord to maintain the home. The holes in the walls, however, are the burden of the tenant. The landlord provided a cost breakdown of 37.8 hours for repair at \$25.00 an hour for a total of

\$945.00 + the cost of supplies \$212.23 for a total of \$1,157.23. Walls should last the life time of the home and damages to the walls will be compensated fully; I find that the tenant shall pay to the landlord \$1,157.23 for the damages to the walls.

69. The landlord said that 9 of the lights were taken down from the ceiling and the attachment parts were missing therefore the lights had to be replaced. The landlord submitted a quote of \$63.23 for each light fixture and \$148.25 for the bathroom light; for a total of $8 \times \$63.23 = 505.84 + 148.25 = \654.09 . He has also submitted a bill for the electrician to change out the light fixtures to be determined at the conclusion of the electrical repairs. The tenant acknowledges that he took the lights down, because he was taking back his light bulbs. He said that he was in a rush and left the shades and parts for the landlord to reattach. The tenant should not have taken down the light fixtures, he may have put light bulbs in during his tenancy, however, he is to return the property in the same condition as it was he first rented; therefore the lightbulbs should have still been in the light fixtures. The tenant's removal of the fixtures and the subsequent loss of the parts to affix the lights rendered the shades useless. A light fixture is expected to last 15 years, these light fixtures are 7 years old they still have $8/15$ years lifespan remaining. I find that the tenants shall pay to the landlord $8/15 \times \$654.09$ for a total of \$348.85 for the supplies to replace the light fixtures.
70. The landlord provided pictures and an estimate of \$300.00 for the 4 heaters that had to be replaced. According to Residential Services Policy 09-005 baseboard heaters should last the lifetime of the home. I accept this estimate and find that the tenant shall pay to the landlord \$300.00 for the replacement of the heaters.
71. The landlord submitted a quote of \$181.22 for the cost of a replacement fan for the bathroom. A bathroom fan should last 20 years and this fan is 8 years old there is therefore $12/20$ of the life expectancy still remaining I find that the tenant shall pay to the landlord $12/20 \times \$181.22$ for a total of \$108.73 for the cost of the replacement of the ceiling fan.
72. The landlord is seeking \$639.00 for the cost of an electric panel. The tenant disputes that they would need a new panel and believes that they could have found a replacement. I accept the landlord's explanation that the door was broken off the panel and on the advice of the electrician, they had to replace the unit for it to pass a safety inspection. An electric panel should last 40 years, the landlord was unable to determine the age of the home, and however it appears to be approximately 30 years old. I therefore find for the landlord that the tenant shall pay $10/40 \times \$639.00 = 159.74$ for the replacement part of the electrical panel.
73. The landlord also said that they had to replace the decorative cover that is over the panel box. They provided a quote of \$56.33 the covering is similar to a vanity cabinet door and should last 20 years, as the apartment was redone in 2015 this is 7 years old and still has 13 years remaining: $13/20 \times \$56.33 = \36.61 . I find that the tenant shall pay to the landlord \$36.61 for the cost of the replacement of the decorative door that covers the electrical panel.
74. The landlord submitted the billing from the electrician for \$3,737.50, the work completed by the electrician was entirely due to damages and not related to upkeep, and for this reason I find that the tenant shall reimburse the landlord the full electrician charge of \$3,737.50.

75. The authorized representative submitted a quote (LL#05) of \$502.55, for the repair of the kitchen cabinets, they are requesting \$450.00 for this repair. It is evident in the pictures that the door in front of the sink has been broken into two pieces. Kitchen cabinets according to Residential Tenancies Policy 09-005 determines that they have a lifespan of 20 years as these cupboards are 8 years old they have 12/20 of their lifespan remaining. I find that the tenant shall reimburse the landlord for $12/20 \times \$502.55 = \301.53 for the repair to the cabinet.

76. The landlord submitted the pictures showing that the kitchen table is damaged and are seeking \$200.00, they have provided a quote for a replacement of \$517.49. A kitchen table has a lifespan of at least 10 years. As the landlord and tenant agree that the table is 7 years old then it has a remaining lifespan of 3/10 years. I find that the tenant shall reimburse the landlord for $3/10 \times \$517.49 = \155.25 for the replacement of the table.

77. The landlord is seeking replacement cost for the following furniture: love seat 2 queen box springs with mattresses and the carpet. He said that there was a terrible smell and anything with a soft surface required replacement. The authorized representative said that when she went to the house a month later the smell was still present. The landlord said that the loveseat is 15 years old and a replacement is \$2,506.97. The expected life span of a loveseat is 15 years and although it might have continued to be functional it no longer has value. Of the two box springs and mattresses one is 3 years old and the other is 10 years old. A box spring and mattress should also last 15 years, therefore for the 3 year old mattress there is 12 years left to the lifespan, $12/15 \times \$1,011.94 = \809.55 and the value of the 2nd 10 year old mattress with 5 years left to the lifespan, $5/15 \times \$1,011.94 = \337.31 for the second mattress. The pictures show that the carpet was destroyed not only by smell but also by ashtrays being tipped over and the contents ground into the carpet. The landlord said that the carpet is berber and the tenant disputes this and said that the carpet is older. The pictures show a berber carpet. The landlord said that the carpet is 8 years old. The lifespan is 15 years therefore the value is $7/15 \times \$3,627.45 = \$1,692.81$. I accept the landlord's testimony and photographic proof of these damages and find that the tenant shall pay mattress1 \$809.55, mattress2 \$337.31 and carpet \$1,692.81.

78. The authorized representative said that the coffee and end tables for the downstairs had the legs broken off the coffee table and the pieces were scratched. She also submitted for an end table from upstairs that is scratched, she said it is 20 years old. She submitted an estimate for the replacement of \$724.49 and said that the set is 15 years old. A coffee and end table set should last 15 years and has lasted its lifespan, although the furniture may have been useful, it no longer has any monetary value.

79. The authorized representative stated that the window crank is missing. The tenant doesn't dispute this and said that it was missing when they moved in. The landlord didn't provide any evidence to show that the crank was there when the tenants moved in and therefore has failed to prove this claim.

80. The authorized representative had submitted a claim for a missing night stand and a damaged night stand. She discovered in her evidence that both night stands were present. She said that the stands were damaged and that they are 15 years old. The tenant disputes the age and said that the stands are at least 30 years old and that they aren't damaged. A night stand should last approximately 15 years and therefore has lasted its lifespan, although the set may have been useful, it no longer has any monetary value.

81. The authorized representative stated that the faucet was missing in the bathtub she provided a quote of \$159.85. The tenant disputes that they would have taken a faucet off the tub. He points out that in the pictures the faucet is clearly visible. The landlord stated that there are two bathrooms and that she didn't include the picture of the bathtub with the handle missing. The landlord has failed to prove this claim.
82. The authorized representative is seeking reimbursement of 3 rails broken off the back patio and she provided a picture. She is seeking \$2.98 for each rail as well as \$20.00 for labor for the cost of the repair. The tenant said that someone broke into their deck and broke those rails. A deck should last 15 years according to the policy and as the landlord said that the deck is 8 years old I find that the tenant will reimburse the landlord for the remaining lifespan of $7/15 \times 8.94 (3 @ 2.98) = \4.17 . The cost of the labor will be determined at the end of damages.
83. The landlord has submitted for 5 doors that are broken; all of the doors are 7 – 8 years old and she provided a quote for \$235.75 per door totaling \$1,178.75. The tenant disputes that the doors are broken because you can see some of them off their hinges in the hallway of the basement apartment. According to Residential Tenancies Policy 09-005 interior doors should last 20 years, therefore at an average of 7.5 years these doors should last another 12.5 years: $12.5/20 \times \$1,178.75 = \736.72 . I find that the tenant shall pay to the landlord \$736.72 for the replacement of the doors.
84. The landlord said that the back door is broken and appears to have been kicked in. The tenant disputes that the door was kicked in in paragraph 57 but states that it was kicked in in paragraph 42. The landlord believes the door was new in 2015 and is 7 years old. They have applied for \$1,000.00 and provided a quote for \$619.00 and the knob \$19.97. According to Residential Tenancies Policy 09-005 exterior doors and knobs should last 15 years. Therefore the door and knob would still have 8 years lifespan remaining: $8/15 \times \$638.97 = \340.78 . I find that the tenant shall pay to the landlord \$340.78 for the replacement of the door and knob.
85. The authorized representative said that the basement was done with a pine wall in 2015. There are large holes in the pictures they provided a quote for $\$1,297.20 \times 2$ for supplies and \$2,070.00 for labor for a total of \$4,664.40. Wood paneling should last 20 years and therefore as it is 7 years old still has 13 years lifespan remaining: $13/20 \times \$4,664.40 = \$3,031.86$. I find that the tenant shall pay \$3,031.86 for the repair of the walls in the basement.
86. The authorized representative claimed \$600.00 for the cost of cleaning. I accept that cleaning was necessary, however, I'm unable to determine the value of the service without a quote or receipt. This claim therefore fails.
87. The landlord is claiming \$35.00 an hour for 52 hours totaling \$1,820.00 in labor costs to remove items from the home then to deliver and dispose of the items at the dump. The tenant is disputing the amount per hour paid to the staff, he believes a more accurate rate would be \$16.00 an hour. I accept the amount of time claimed by the landlord, however, I am inclined to agree that the hourly rate of \$35.00 does seem excessive for general labor. A previous time sheet showed a rate of \$25.00 per hour which is acceptable. Therefore I will agree that the tenant shall pay the landlord for the cost of staff to remove the broken items from the home; $52 \text{ hours} \times \$25.00 = \$1,300.00$.

88. In addition to this the landlord claimed for the disposal fees totaling \$165.48 and mileage for two trips to the dump at 600 kms @ \$1.50 for the truck and trailer \$900.00. The tenant disputes that there was a need for two separate dump runs. I accept that there are two runs necessary and the provided receipts for the dumping fee totaling \$165.48. The cost of mileage for a government employee is 0.4285 and an internet search states that when towing a trailer a vehicle will have a gas mileage increase of 30%. I will therefore find for a mileage rate of $0.4285 \times 1.30\% = 0.557$. $600 \text{ kms} \times 0.557 = \334.20 . The tenant shall therefore pay to the landlord mileage of \$334.20 and dumping fees of \$165.48 for a total of \$499.68.

89. The authorized representative is also claiming 150.5 hours at \$35.00 an hour totaling \$5,267.50 general maintenance and repairs. Their business is in [REDACTED] and they are claiming mileage to [REDACTED] totaling \$1,575.00. I will accept that the 150.5 hours work are necessary based on the amount of damages shown in the pictures. However, I will again award the salaries at the rate of \$25.00 an hour, the approved total will be $150.5 \text{ hours} \times \$25.00 \text{ per hour} = \$3,762.50$. The rate for travel from the office to the work site is not the burden of the tenant therefore mileage fails. I find that the tenant shall pay to the landlord \$3,762.50 for general maintenance and repairs.

Decision

90. The tenants shall pay to the landlord as compensation for damages as follows:

Paragraph	Item	cost
66	Microwave	79.00
68	Damages to walls	1,157.23
69	Lights	348.85
70	Heaters	300.00
71	Ceiling fan	108.73
72	Electrical panel	159.74
73	Decorative door cover	36.61
74	Electrician	3,737.50
75	Kitchen cabinet	301.53
76	Kitchen table	155.25
77	Mattress 1	809.55
77	Mattress 2	337.31
77	Carpet	1,692.81
82	Railing	4.17
83	Doors interior	736.72
84	Back door	340.78

85.	Pine walls	3,031.86
87	Staff removal of items and disposal	1,300.00
88	Mileage and dump fees	499.68
89	Staff general maintenance and repair	3,762.50
	Total	18,899.82

Issue 2: Possessions returned / compensated \$6,420.00

Landlord's Position

91. The authorized representative submitted the following list of items that are missing from the house. She said that they are seeking financial compensation for the items, not the return of the items. She has submitted pictures of the items in the house, prior to the tenants moving in (LL#08) and she has submitted quotes to purchase the items new (LL#07) as well as an estimate for the value of the used item.
92. The landlord submitted the following information list for compensation for missing items, labor to install these items are covered in the compensation for damages portion of the claim under costs for staffing and the costs for the electrician:

#	Item	Used	Age	New
i.	Upstairs bathroom – toilet paper holder, towel holder	60.00	8yrs	61.98
ii.	Patio- 4 missing railings	40.00	7yrs	13.71
iii.	6 smoke detectors	250.00	8yrs	324.09
iv.	Basement – wall thermostat	75.00		33.29
v.	Living room sofa	350.00	15yrs	2,529.97
vi.	Living room recliner chair	250.00	5yrs	1,552.48
vii.	Living room table lamps	80.00	8yrs	183.93
viii.	Living room coffee table	150.00	15yrs	182.99
ix.	Kitchen – dehumidifier	350.00	4yrs	483.00
x.	Dining room table and six chairs	300.00	15yrs	2,683.32
xi.	Bedroom 1 queen metal bed frame	75.00	7yrs	114.97
xii.	Bedroom 1 queen mattress pad, 2 pillows, bedding set	100.00	4yrs	448.34
xiii.	Bedroom 2 : queen bed frame	75.00	7yrs	114.97
xiv.	Bedroom 2: queen mattress pad, 2 pillows, bedding set	300	4yrs	448.34
xv.	Master bedroom queen box spring and mattress	800.00	5yrs	1,011.94
xvi.	Master bedroom queen mattress pad, 2 pillows, bedding set	300.00	5yrs	448.34
xvii.	Master bedroom 1 dresser	200.00	5yrs	1,034.94
xviii.	Basement			
xix.	Living room small black t.v. stand	100.00	7yrs	394.99

xx.	Living room 2 table lamps	75.00	7yrs	183.93
xxi.	Washer & dryer	700.00	5yrs	2,242.44
xxii.	Bedroom 1 single bed mattress	250.00	10yrs	954.44
xxiii.	Bedroom 1 single bed mattress pad, pillow and bedding	100.00	5yrs	249.89
xxiv.	Bedroom 1 large wardrobe unit	250.00	7yrs	1,575.49
xxv.	Bedroom 2 queen bed frame	75.00	7yrs	114.97
xxvi.	Bedroom 2 queen mattress	800.00	7yrs	1,011.94
xxvii.	Bedroom 2 queen mattress pad, 2 pillows, bedding	100.00	4yrs	448.34
xxviii.	Bedroom 2 shelf	50.00	7yrs	378.35
xxix.	Bedroom 2 one dark night table	40.00	8yrs	447.35
xxx.	Bedroom 2 one white night table	30.00	8yrs	99.95
xxxi.	Bedroom 2 small side lamps	20.00	7yrs	65.98
xxxii.	Bathroom heater	75.00	7yrs	104.80

- Prices with taxes included

Tenant's Position

93. The tenant chose to end his participation in the hearing at this time. The tenant did say prior to leaving that his brother lives in the States and is a millionaire, he doesn't need to steal furniture and that if they needed anything his brother would give it to them. He also indicated that the landlord furnishes his houses with used furniture. He was very clear that he doesn't have any of these belongings in his possession.

Analysis

94. As the tenant states he doesn't have any of the landlord's items the valuation of the items listed by the landlord will be for financial compensation. Based on the photographs submitted into evidence from before the tenancy and after; I accept that the items are missing and that the tenants are responsible for the loss. In any instance where the landlord's asking price is lower than the quote, the landlord shall be awarded the lower price and it will be marked with a "Q."

95. Life expectancy of home furnishings and appliances not included in our policy were found on internet sites for home repairs. i.e. www.livingspaces.com/inspiration/ideas-advice/guides/furniture-lifespan-guide-when-to-replace-your-furniture , www.bbifinishes.com/blog/how-long-does-carpet-last/.

96. The landlord provided the below list of items missing from the home along with the age and cost of each item. This list has been updated to include the expected lifespan to be included in the calculation:

#	Item	Used	Age	lifespan	New
i.	Upstairs bathroom – toilet paper holder, towel holder	60.00	8yrs	10yrs	61.98
ii.	Patio- 4 missing railings	40.00	7yrs	15yrs	13.71
iii.	6 smoke detectors	250.00	8yrs	12yrs	324.09
iv.	Basement – wall thermostat	75.00		lifetime	33.29
v.	Living room sofa	350.00	15yrs	15yrs	2,529.97

vi.	Living room recliner chair	250.00	5yrs	15yrs	1,552.48
vii.	Living room table lamps	80.00	8yrs	15yrs	183.93
viii.	Living room coffee table	150.00	15yrs	15yrs	182.99
ix.	Kitchen – dehumidifier	350.00	4yrs	10yrs	483.00
x.	Dining room table and six chairs	300.00	15yrs	20yrs	2,683.32
xi.	Bedroom 1 queen metal bed frame	75.00	7yrs	lifetime	114.97
xii.	Bedroom 1 queen mattress pad, 2 pillows, bedding set	100.00	4yrs	5yrs	448.34
xiii.	Bedroom 2 : queen bed frame	75.00	7yrs	15yrs	114.97
xiv.	Bedroom 2: queen mattress pad, 2 pillows, bedding set	300	4yrs	5yrs	448.34
xv.	Master bedroom queen box spring and mattress	800.00	5yrs	15yrs	1,011.94
xvi.	Master bedroom queen mattress pad, 2 pillows, bedding set	300.00	5yrs	5yrs	448.34
xvii.	Master bedroom 1 dresser	200.00	5yrs	15yrs	1,034.94
xviii.	Basement				
xix.	Living room small black t.v. stand	100.00	7yrs	15yrs	394.99
xx.	Living room 2 table lamps	75.00	7yrs	15yrs	183.93
xxi.	Washer & dryer	700.00	5yrs	10yrs	2,242.44
xxii.	Bedroom 1 single bed mattress	250.00	10yrs	15yrs	954.44
xxiii.	Bedroom 1 single bed mattress pad, pillow and bedding	100.00	5yrs	5yrs	249.89
xxiv.	Bedroom 1 large wardrobe unit	250.00	7yrs	15yrs	1,575.49
xxv.	Bedroom 2 queen bed frame	75.00	7yrs	lifetime	114.97
xxvi.	Bedroom 2 queen mattress	800.00	7yrs	15yrs	1,011.94
xxvii.	Bedroom 2 queen mattress pad, 2 pillows, bedding	100.00	4yrs	5yrs	448.34
xxviii.	Bedroom 2 shelf	50.00	7yrs	15yrs	378.35
xxix.	Bedroom 2 one dark night table	40.00	8yrs	15yrs	447.35
xxx.	Bedroom 2 one white night table	30.00	8yrs	15yrs	99.95
xxxi.	Bedroom 2 small side lamps	20.00	7yrs	15yrs	65.98
xxxii.	Bathroom heater	75.00	7yrs	lifetime	104.80

97. The following items have outlived their lifespan and I determine those items no longer have any monetary value:

- V. living room sofa
- Viii. Living room coffee table
- Xvii. Master Bedroom queen bed mattress pad, pillow and bedding
- Xxiii. Bedroom 1 single bed mattress pad, pillow and bedding

98. The following list should last the lifetime of the home and I find that the tenant's shall fully compensate the landlord for their loss, as follows:

- Iv. Basement – wall thermostat 33.29
- Xi. Queen metal bed frame 114.97 Q 75.00
- Xxv. Queen metal bed frame 114.97 Q 75.00
- Xxxii. Bathroom heater 104.80 Q 75.00
- Total..... \$258.29

99. The following list of items are 7 years old and should have lasted 15 years. I find that the tenant shall compensate the landlord 8/15's of the quote for their loss, as follows:

• Ii. Patio railings	$13.71 \times 8/15 =$	7.31
• Xiii. Queen bed frame	$114.97 \times 8/15 =$	60.93
• Xix. Small tv stand	$394.99 \times 8/15 = 209.34$	Q 100.00
• Xx. Two table lamps	$183.93 \times 8/15 = 97.48$	Q 75.00
• Xxiv. Large wardrobe	$1,575.49 \times 8/15 = 835.01$	Q 250.00
• XXvi. Queen mattress	$1,011.94 \times 8/15 =$	536.33
• XXviii. Shelf	$378.35 \times 8/15 = 176.56$	Q 50.00
• XXXi two small lamps	$65.98 \times 8/15 = 34.97$	Q <u>20.00</u>
• Total		<u>\$1 099.57</u>

100. The following list of items are 8 years old and should have lasted 15 years. The tenant shall compensate the landlord 7/15's of the quote for their loss, as follows:

• VII table lamps	$183.93 \times 7/15 = 86.45$	Q 80.00
• XXIX night table	$447.35 \times 7/15 = 210.25$	Q 40.00
• XXX white night table	$99.95 \times 7/15 = 46.98$	Q <u>30.00</u>
• Total		<u>\$150.00</u>

101. The following list of items are 4 years old and should have lasted 5 years. The tenant shall compensate the landlord 1/5's of the quote for their loss, as follows:

• XII. Queen bedding	$448.34 \times 1/5 =$	89.67
• XIV. Queen bedding	$448.34 \times 1/5 =$	89.67
• XXVII. Queen bedding	$448.34 \times 1/5 =$	<u>89.67</u>
• Total		<u>\$269.01</u>

102. The following list of items are 5 years old and should have lasted 15 years. The tenant shall compensate the landlord 10/15's of the quote for their loss, as follows:

• VI. Recliner	$1,552.48 \times 10/15 = 1,040.16$	Q 250.00
• XV. Box spring and mattress	$1,011.94 \times 10/15 =$	678.00
• XVII. Dresser	$1,034.94 \times 10/15 = 693.41$	Q <u>200.00</u>
• Total		<u>\$1,128.00</u>

103. The following list of items are a variety of ages. I find that the tenant shall compensate the landlord based on their life expectancy, as follows:

• I. toilet paper and towel holder	$61.98 \times 2/10 =$	12.40
• III. 6 smoke detectors	$324.09 \times 4/12 =$	108.03
• IX. Dehumidifier	$483.00 \times 6/10 =$	289.80
• X. table and chairs	$2,683.32 \times 5/20 = 670.83$	Q 300.00
• XXI. Washer and dryer	$2,242.44 \times 5/10 = 1,121.22$	Q 700.00
• XXII. Single mattress	$954.44 \times 5/15 = 314.97$	Q <u>250.00</u>
• Total		<u>\$1,660.23</u>

Decision

104. In summary, I find that the tenants shall pay to the landlord \$4,565.10, for loss of missing items, as follows:

- Paragraph 99. 258.29
- Paragraph 100. 1,099.57

• Paragraph 101.	150.00
• Paragraph 102.	269.01
• Paragraph 103.	1,128.00
• Paragraph 104.	<u>1,660.23</u>
• Total	<u>\$4,565.10</u>

Issue 3: Hearing expenses reimbursed \$20.00

105. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#09) and pursuant to policy 12.01, I find that he is entitled to reimbursement of that cost from the tenants.

Summary of Decision

106. The tenants shall pay to the landlord \$23,484.92 for damages, loss of items and hearing expenses as follows:

• Damages	18,899.82
• Compensation for loss of items	4,565.10
• Hearing expenses	<u>20.00</u>
• Total	<u>\$23,484.92</u>

November 15, 2022

Date

Jacqueline Williams, Adjudicator
Residential Tenancies Office