

## Residential Tenancies Tribunal

Applications: [REDACTED]

Decision 21-0016-04

Jaclyn Casler  
Adjudicator

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### Introduction

1. The hearing was called at 9:16AM on 8 June 2022 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord”, participated in the hearing.
3. The respondent, [REDACTED] hereinafter referred to as “the tenant”, participated in the hearing.
4. An affidavit of service was provided by the landlord (L#1) confirming that the tenant was served of the claim against him. The originally scheduled hearing was briefly called on 13 April 2022 and then postponed by the previous adjudicator because he was not satisfied that the tenant had received evidence provided by the landlord (A#1).
5. The details of the claim were presented as a month-to-month agreement that started 01 September 2020 and terminated 30 September 2021 when the tenant vacated the rental premises. Monthly rent was set at \$1,500.00 and a security deposit in the amount of \$1500.00 was collected and is being held by the landlord. A copy of the written rental agreement was provided (L#2).
6. In a proceeding under the *Residential Tenancies Act*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. The standard of proof, in these proceedings, is referred to as the balance of probabilities which means the applicants have to establish that their account of events is more likely than not to have happened.

## Issues before the Tribunal

7. The landlord is seeking the following:
  - An order for compensation paid for damages in the amount of \$9,650.00 and;
  - An order for the security deposit collected in the amount of \$1,500.00 to be applied against monies owed.

## Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
9. Also relevant and considered in this case are sections 12 and 14 *Act* and Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property.

## Preliminary Matters

10. The rental premises is a single family home located at [REDACTED] in [REDACTED]. Relevant to this hearing, is that the tenant was not entitled to access the large garage/yoga studio on the property that was occupied by different individuals during the time the tenant resided in the single family home.
11. The single family home was majorly renovated in 2009 and the majority of items claimed to be damaged by the landlord were said to be new at that time. The landlord testified that she agreed to rent to the tenant because he was single, he had a dog, and he traveled frequently for work.

## Issue 1: Compensation Paid for Damages (\$9,650.00)

### General Submissions

12. The applicant in any damage claim is required to provide and speak to the evidence (witness, documentary, or recorded) necessary to establish on the balance of probabilities that:
  - That the damage they are claiming compensation, exists;
  - That the respondent is responsible for the reported damage through a willful or negligent act; and
  - The value to repair or replace the damaged item(s).
13. The landlord was not prepared to call witnesses. She testified that she believed the various letters and emails copy and pasted into the Word summary document she provided to the tribunal were sufficient (L#3). Nor was the landlord able to

produce comprehensive pictures or receipts related to either the original state or replacement costs of the various items claimed to be damaged by the tenant.

14. The landlord submitted a copy of the itemized request for repairs that she had signed and dated by the tenant on 13 July 2021 (L#4). The landlord testified that she returned to [REDACTED] in July 2021 (from [REDACTED] to visit her rental property and prepare it for sale. She stated that she requested to complete a walk through with the tenant, and that she created the request for repairs after completing the walk through. The tenant acknowledged his signature on the document and testified that he only signed it because he felt uncomfortable with the sudden appearance and demands of the landlord against him.
15. The landlord also submitted an itemized list of damages totaling \$9,650.00 (L#5). This list was reviewed item by item and available evidence was considered against each. The landlord testified that she has not yet sold her house because she does not have the money to address damages claimed.
16. The landlord and tenant conducted an initial walk through together but did not conduct a shared move out walk through together. The tenant testified that he did not believe it appropriate to participate in a final walk through with the landlord because she had previously brought a local police officer with her to the property and she also testified that she felt “unsafe” with the tenant.

### **Claim #1 – Flooding of Laundry and 1.5 Bathroom Landlord’s Position**

17. The landlord testified that she informed the tenant prior to him taking occupancy that she previously experienced leaks from the washing machine and made clear to him, that he was to contact her automatically if any future leaks occurred. Additionally, the landlord testified that she submitted evidence of a service record on the washer, for replacement of washer hose, prior to the tenant taking occupancy. However, a review of the date associated with this invoice suggests that it related to a December 2021 service call, and not August 2021 as the landlord had testified (L#6).
18. The landlord submitted an invoice from [REDACTED] in the amount of \$1,500.00 for an insurance deductible, which the landlord testified was charged against the \$4,111.85 in work required in the laundry room and 1.5 bathroom due to “flooding of laundry/1.5 bathroom” (L#7). The landlord also submitted proof of payment for the same (L#8).
19. However, no pictures or video, or condition inspection reports were provided by the landlord to establish the state of the laundry room and or 1.5 bathroom at the time that the tenant took occupancy of the rental premises. A picture of black mould behind baseboards in an interior room was the only proof submitted by the landlord (L# 9). The landlord did submit a detailed summary of work completed in

her rental premises as well as proof of the insurance claim related to the incident (L#12) after the hearing.

20. The landlord submitted evidence of her text conversation with the tenant regarding his November 2020 report of the washing machine leak and testified that the tenant waited three months to provide her notice of the leak (L#10).
21. The landlord testified that she instructed the tenant to not use the washer until it was fixed, and that despite this, he continued to use the washer. The landlord further testified that the laundry and bathroom were “completely redone” in April 2021. The landlord also testified that her contractor took her laundry machines out to “fix properly this time”. The landlord did not provide any accommodations and or rebate of rent to the tenant during the time that the washer was unavailable to him.
22. Regarding the documented claim for \$500.00 for “damaged closet doors” the tenant testified that [REDACTED] worked on the closet doors and got them to close. The landlord also testified that she had no data on the state of the closet doors prior to the tenant occupying her rental premises.

### **Tenant’s Position**

23. The tenant testified that he works 2 weeks on and 2 weeks off, and that he was often not home during his 2 weeks off because he would be out working various jobs. He disputed the landlord’s testimony that he “waited 3 months” to notify her of any leaks from the washing machine.
24. The tenant testified that the floor in the laundry room was bubbled at the time he moved in, September 2020. He further stated that he has asthma and that it was aggravated by the mold growing in the rental premises. The tenant also testified that he cleaned up any water that leaked from the washing machine after he used it.
25. The tenant testified that he was without a washing machine between November 2020, when he reported the leak to the landlord and April 2021, when the laundry room and bathroom were serviced by [REDACTED]. He testified that he relied upon his girlfriend and mother for assistance with his washing during that time.
26. The witness, [REDACTED] called by the tenant, testified that the tenant was not able to use the laundry in his rental premises for a significant period of time. He also testified to efforts of the tenant to address any leaks or issues with the washing machine.

### **Analysis**

27. I accept the landlord’s update on the original claim for \$500.00 for the closet door and that it was no longer required. I did not consider this claim any further.

28. Regarding the “flooded” laundry room and bathroom, I accept that there was substantial work completed in the rental premises as a result of a leaking washing machine. However, I was not convinced that the tenant was the cause of the damage, let alone the extent of the damage for a few reasons:
- The landlord testified that there was a previous leak due to the washing machine and spoke in great detail of how she attempted to prepare the tenant for future leaks. Had the acknowledged leak been only minor, I do not believe that the landlord would have exerted such an effort. This caused me to wonder if the original leak (and or pre-existing water damage) was substantial prior to the tenant taking occupancy.
  - The tenant testified that the laundry room floor was bubbled at the time he moved into the rental premises.
  - No photographic evidence was provided of the state of the laundry room/ washing machine, and or bathroom prior to, during, or after the tenant vacated the rental premises.
  - The landlord agreed to rent to the tenant because he was frequently away – The tenant nonetheless testified that he cleaned up any leaks that occurred to the best of his ability. I do not believe that he intentionally neglected his obligations as the landlord suggested.
  - A significant leak occurred sometime in November 2020 and the landlord was notified. However, remediation work did not begin until April 2021 and the tenant testified and provided evidence that he could not access laundry during that time. It is not reasonable to hold the tenant responsible for delay in services.

### **Decision**

29. The landlords claim for compensation for flooding of laundry/1.5 bathroom does not succeed.
30. The landlord’s claim for compensation for damaged closet doors does not succeed.

### **Claim # 2 – September 2021 Rent not paid (\$1,500.00)**

31. The landlord was informed that matters of rent would not be considered in this hearing because she did not include “payment of rent” in her application for dispute resolution. Where there can be space for “payment of rent” in other damage claims, such as when damages caused by the vacated tenant prevent the landlord from promptly re-renting, this landlord’s claim for rent related to payment from the tenant who she claimed was the source of said damages.

### **Claim #3 – Garage window broken and garage used for storage**

#### **Landlord's Position**

32. The landlord testified and provided pictures regarding a grilled window in the garage that was broken and replaced by the tenant – however, the replacement was not the same style or quality of the original window (L#11). The landlord estimated that the 38x46 window was probably 7 years old and testified that the original window could open but that the replaced window could not. The landlord also testified that the tenant utilized the shed for storage without her permission.
33. The landlord claimed \$500.00 in damages related to these items.

#### **Tenant's Position**

34. The tenant testified that the landlord's ex-husband, who was living in the garage at that time, invited him to store the item in the garage. He testified further, that the item stored was previously kept in the driveway.
35. Specific to the broken window, the tenant testified that he held his annual work party and that an unwanted party guest showed up and broke the garage window. He testified that he got the window fixed by a local glass experts, and that he could not replace the broken window with a "grilled" window similar to what existed previously, because such a window was not available for purchase at that time in Labrador.
36. The tenant testified that he fixed the window promptly because he knew the landlord's ex husband was living in the garage and that he did not want him to get cold. The tenant acknowledged that he did not seek guidance or permission from the landlord in fixing the broken window.

#### **Analysis**

37. I accept that a guest of the tenant broke the window and that the tenant did his best to replace the broken window with what was available for purchase in Labrador. However, I also acknowledge that the tenant did not replace the custom window exactly as it existed prior to breaking.
38. The landlord estimated that her costs for the window when installed new was \$500.00 for the whole window. According to Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property, a vinyl window has an expected service life of 20-50 years and so this broken window could be considered to be approximately 1/3 of the way through its serviceable life. Consequently 2/3 of the claimed replacement costs could be considered reasonable compensation.
  - $\$500.00 \times .66 = \$330.00$

## **Analysis**

39. The landlords claim for compensation related to the garage/yoga room succeeds in the amount of \$330.00.

### **Claim #4 – Broken Light Fixture Landlord Position**

40. The landlord provided a picture of the light fixture (installed as part of the 2009 renovations) that is missing its shade (L#13). She testified that the exact light is no longer made and that a replacement light must be ordered. The landlord estimated that \$150.00 would be a reasonable cost for replacing the light.

### **Tenant's Position**

41. The tenant testified he accidentally broke the shade on the light fixture when moving a couch and that he attempted to purchase a replacement shade for the light but was unable.

## **Analysis**

42. No picture of the light in its original state was provided but I accept that the light fixture in its current state, likely had some sort of “shade” originally. According to Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property, an interior light fixture has an expected serviceable life of 10-15 years.
43. Because the light fixture, new in 2009, could be considered to be at the end of its serviceable life and because the tenant testified to his efforts to secure a replacement shade, I find that the landlord is not entitled to her claim for compensation. I note further, that the light fixture as is, is fully functional.

## **Decision**

44. The landlords claim for compensation for a damaged light does not succeed.

### **Claim #5 – Living room walls/ceiling damaged (\$200.00)**

#### **Landlord's Position**

45. The landlord testified that the rental premises was last painted in 2009 and that she gave permission to the tenant to paint – however she took issue with what she testified was “low quality” painting by the tenant. Additionally, the landlord submitted a photo of the living room ceiling and walls that showed 5 screw holes and other patched holes (L#14).

## **Tenant's Position**

46. The tenant acknowledged that he painted, that he had installed a projector on the ceiling and spoke of his efforts to plaster any holes he had made prior to vacating the rental premises. The tenant submitted multiple videos he captured throughout the rental premises as evidence that if holes were made, he had patched most of them and that any remaining areas were not significant (T#1).

## **Analysis**

47. The landlord testified that the unit was last painted in 2009. According to Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property, interior painting has expected serviceable lifespan of 3 – 5 years. This period of time was far exceeded when the tenant took occupancy. As such, the landlord is not entitled her claims for compensation for damage.

## **Decision**

48. The landlord's claim for damaged living room walls and ceiling does not succeed.

## **Claim # 6 - Missing 32 Inch Frosted French Door (\$500.00)**

### **Landlord's Position**

49. The landlord submitted a photo as evidence that the frosted front door previously existed in her rental unit (L#15). The landlord estimated that the cost of the door when new was \$500.00.

### **Tenant's Position**

50. The tenant stated that the French door was a nuisance and would scrape on the floor when opened so he removed it. He provided photographic evidence of the not level floor in the area of the door (T#2). The tenant testified that he took the door to the dump because the bottom of it was splayed.

## **Analysis**

51. I accept that the door was removed and disposed of without permission. However, I also accept that the door may not have been functional. Regardless, the tenant disposed of the landlord's property without permission. According to Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property, an interior door such as this French door, has a 20 year serviceable life. Because the door was installed in 2009 and had 7 years of life remaining, I find that the landlord is entitled to that depreciated portion of her estimated \$500.00 that the door costs new when it was installed.

$$\$500.00/20 \times 7 = \$175.00$$



## **Decision**

52. The landlord's claim for compensation in damages for a missing frosted French door succeeds in the amount of \$175.00.

### **Claim #7 – 6 Missing window screens (\$600.00)**

#### **Landlord's Position**

53. The landlord testified that she was missing 6 window screens, including 4 from the dining room/living room area and 1 each from two bedrooms. She indicated that she would need to get quotes on the costs of replacing the missing window screens because the windows were custom. The landlord pointed to pictures she submitted of the rental premises from before the tenant moved in, to argue that window screens previously existed (L#00).

#### **Tenant's Position**

54. The tenant testified that he left two screens on the floor when he vacated the rental premises, and that he otherwise had no specific knowledge of the window screens said to be missing.

#### **Analysis**

55. The landlord failed to establish that the claimed window screens existed and or existed in a quality state prior to the tenant taking occupancy of the rental premises. Nor did she establish that the tenant had any particular knowledge of, or impact on the screens claimed to be damaged.
56. According to Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property, window screens installed in 2009 would be nearing the end of their anticipated 15 year serviceable life.

## **Decision**

57. The landlord's claim for compensation in damages for missing window screens does not succeed.

### **Claim #8 - Damaged window in living room (\$200.00)**

#### **Landlord's Position**

58. The landlord testified that a window in the living can no longer stay open. The landlord testified that she believed the tenant utilized the window for the purposes of accessing the rental premises.

59. I note that the photographic proof provided by the tenant of the window that was said to “not stay open” is an open window (L#16).

### **Tenant’s Position**

60. The tenant testified that he recalled the window “working fine”.

### **Analysis**

61. The landlord failed to establish that the window was damaged, or that the window was damaged by the tenant.

### **Decision**

62. The landlord’s claim for compensation for a window that “will not stay open” does not succeed.

### **Claim # 9 – Door in full bathroom was replaced with older door (\$300.00)/holes in walls needing painting \$200.00**

### **Landlord’s Position**

63. The landlord testified and provided photos of the door frame to the full bathroom to indicate that the hinges of the currently installed door do not match the grooves of the originally installed door (L#17).
64. The landlord did not provide specific photos to depict the state or quality of the walls or her concerns with the walls that are said to be needing patching and painting.

### **Tenant’s Position**

65. The tenant testified that he replaced the door to the main bathroom because the hinges were sticking and he wanted to provide privacy for any guests.

### **Analysis**

66. A review of the Landlord’s Request for Repairs document signed in July 2021 indicates that the landlord requested the tenant “Repair hole in bath/laundry room door” (L#4). The landlord failed to establish why the tenant was responsible for replacing a door, said to be new in 2009. I accept that the tenant replaced the door as requested.
67. Specific to the landlords concern for the state of paint and plaster in the bathroom, no specific pictures were provided of before or after to depict the full state of concerns. I accept prior testimony that the unit was last painted in 2009 and therefore need to be painted.

## **Decision**

68. The landlord's claim for compensation for damages for the full bathroom door does not succeed.
69. The landlord's claim for compensation for damages for the walls of the full bathroom does not succeed.

## **Claims #10/11/12 – Bedroom #1/#2/#3 Smell and damage (\$400+\$500+\$500)**

### **Landlord's Position**

70. The landlord testified that the rooms smelled of urine and that the walls and ceiling needed to be repaired. She provided a picture of a nice looking teal and a nice looking grey bedroom prior to the tenant moving in, however, it was unclear which bedrooms these were (L#00). She also provided a picture collage to depict a smear on the walls and slight damage above a frame (see page 9 in L#3).
71. The landlord testified that the tenant had two cats living with him despite being approved for a single dog. The landlord provided a picture of the cats (L#18). The landlord also referred to the picture of the doors previously referenced (L#17) to demonstrate that the door had been replaced from the original with a different sort of door and different hinges.
72. The landlord testified that bedroom 3 was missing a closet door and provided a picture of a room with no closet door (L#19). However, no specific dimensions and or replacement costs or quotes were provided for the missing closet door.
73. The landlord submitted a letter written by someone who seconded these concerns, however, this letter was not an affidavit and the person was not available during the hearing as an oral witness (see page 15 in L#3).

### **Tenant's Position**

74. Specific to the missing closet door, the tenant testified that he had a king sized bed and that the rooms were small so he removed the closet doors so he could change in the closet. He stated that the closet door was removed and taken to the dump. The tenant provided no specific comments on the state of the walls in the bedrooms.
75. Regarding the urine smell concerns, the tenant testified that the two cats did not belong to him, but were friends and family cats who visited occasionally and when they visited, would stay in the bedrooms. The tenant testified that he cleaned the litter boxes regularly.

## **Analysis**

76. The landlord failed to establish why the tenant replaced the bedroom doors that existed prior to him taking occupancy. The landlord also failed to establish that there were particular issues with urine smells in the bedroom.
77. Because the house was last painted in 2009 and because no specific pictures were provided of notable damage in any of the bedrooms, I do not find that the tenant is responsible for painting or patching holes in the bedrooms.
78. I acknowledge that the tenant disposed of a set of closet doors inappropriately and find that the landlord is entitled to compensation for that. Unfortunately, the landlord did not submit specific cost estimates or expectations related to the closet door. As such, I chose what seems to a reasonable amount.

## **Decision**

79. The landlord's claim for compensation for damages to the three bedrooms succeeds in the amount of \$200.00.

### **Claim #13 – Damage to lawn, holes, animal feces (\$200.00)**

#### **Landlord's Position**

80. The landlord submitted a picture of a small section of her lawn showing a cinder block and a dent from the block in the lawn (L# 21). There was no indication or testimony provided of when this photo was taken. The landlord testified that she did not know she was required to submit photos of the rest of her lawn.

#### **Tenant's Position**

81. The tenant testified that the picture represented one hole in the lawn that is across a 100 x 50 foot lot. He wrote in his summary document (T#3) that:
  - the cinder block existed on the lot prior to him taking occupancy of the unit;
  - he cleaned up after his dog regularly, and;
  - the yard was unfenced and so other animals could have defecated on it.

## **Analysis**

82. The tenant disputed the damage claim and the landlord had no proof relating to the state of the lawn prior to the tenant taking occupancy. The landlord failed to establish the extent of damage and or that the tenant was the source of damage.

## **Decision**

83. The landlord's claim for compensation for damages to the yard does not succeed.

## **Claim #14 – Damage to Exterior Steps \$400.00**

### **Landlord's Position**

84. The landlord submitted photos of the steps that were taken as the tenant was in the process of vacating the rental premises (L#22). She testified that the steps were new in 2009 and last painted 5 years ago. As a specific example of damage to the steps, she highlighted what looks to be a small gouge in the top railing of one section of the stairs (as shown in the picture). The landlord acknowledged that the stairs “need a paint job”.

### **Tenant's Position**

85. The tenant testified that he believed the stairs in question are not built of pressure treated wood and that they were in rough condition when he moved in.

### **Analysis**

86. The landlord failed to establish the state of the steps when the tenant took occupancy of the unit. Nor did she provide quotes or receipts related to what she expected would cost \$400.00 to address any perceived damage to the steps. As such, I was not convinced that the tenant was the source of any damage concerns related to the steps.

### **Decision**

87. The landlord's claim for compensation for the steps does not succeed.

## **Claim #15 – Weather Stripping (\$100.00)**

### **Landlord's Position**

88. The landlord testified her July 2021 request for repairs included an item specific to replacing the weather stripping on the exterior door. She testified further, that the tenant replaced the weather stripping but did not replace like for like. Specifically, she had been expecting the tenant to install insulated weather stripping but he installed plastic weather stripping. The landlord testified that the weather stripping is no longer adequate for preventing drafts into the house and that she had to hang blankets the last winter she lived there so as to minimize drafts.
89. The landlord testified that the weather stripping needed to be replaced because the tenant's cats pulled at it and damaged it. The landlord submitted a picture of a door with a gap around it to demonstrate the claimed inadequacy of the installed weather stripping.

## **Tenant's Position**

90. The tenant testified that he replaced the weather stripping as requested using what was available to purchase at the time in Labrador. The tenant submitted a video of the weather stripping having been removed from the door and the new weather stripping installed on the frame of the door in question (T#4).

## **Analysis**

91. The landlord requested that the tenant replace weather stripping and he replaced the weather stripping. As such, I was not convinced that the tenant is the cause of any subsequent claims given that he replaced it as requested.

## **Decisions**

92. The landlord's request for compensation for damages to weather stripping does not succeed.

## **Claim #16 - Damage to Kitchen/Dinning Room Laminate (\$500.00)**

93. The landlord testified that the damages now evident across the length of her laminate floor did not exist prior to the tenant taking occupancy of the floor. She submitted close up pictures of two sections of the flooring that have small scratches and testified that such damage exists across the extent of the floor (L#24). The landlord testified that she believed the damages were caused by the tenant storing his tools inside on the floor.

## **Tenant's Position**

94. The tenant testified that he always stored his tools outside and that if there were scratches on the floor, this could have been the result of the impacted washing machine being dragged in and out of the laundry room (by the landlord's contractors). The tenant referred to a video he submitted that provides a quick overview of the flooring in the living room and kitchen (T#5). I note no obvious deformities in the flooring.

## **Analysis**

95. The landlord failed to establish the extent of any claimed damage to the flooring, and or that the tenant was the cause of any specific damage.

## **Decision**

96. The landlord's claim for compensation for damage to the laminate flooring does not succeed.

### **Claim #17 – Dining Room Exterior Door handle missing (\$50.00)**

97. This claim for compensation was not specifically considered in the hearing and so no award for compensation will be provided.

### **Claim #18 – Damages to Concrete Driveway (\$500.00)**

#### **Landlord's Position**

98. The landlord testified that the tenant was the source of documented scrapes throughout the extent of the concrete driveway at the rental premises. She submitted a photo of one such scrape said to be located 10 feet out from the garage (L#25). The landlord testified that the driveway was new in 2015 and that she did not know if it was sealed, or sealed regularly.

#### **Tenant's Position**

99. The tenant testified that he is a concrete professional and that if the landlord wants to maintain the integrity of her concrete driveway, she should be sure to have it sealed regularly.

#### **Analysis**

100. The scratch in the driveway is adjacent to the garage that has been occupied by persons other than the tenant. The landlord failed to establish that the scratch as documented, represented \$500.00 worth of damage and or that any damage, was the result of the tenant.

#### **Decision**

101. The landlord's claim for compensation for damage for the concrete driveway does not succeed.

### **Claim #19 - Replace Damaged Garbage Container (\$150.00)**

#### **Landlord's Position**

102. The landlord testified that the commercial plastic garbage container was purchased new prior to the tenant taking occupancy. She submitted a photo demonstrating a noticeable crack in the top side arm of the container (L# 26).

#### **Tenant's Position**

103. The tenant testified that the local garbage trucks are those with the automated arm that hooks into the container, opens the container and then dumps refuse in the garbage truck. The tenant also testified that he lives in Labrador, where the weather is harsh and the wind frequently catches the garbage container. He

testified that he doubted that he could have been harder on the container than the weather or the garbage collection truck.

### **Decision**

104. The landlord failed to establish that the tenant was the source of the damaged garbage container.

### **Analysis**

105. The landlord's claim for compensation for damage for the garbage container does not succeed.

### **Claim #20 – Removal of Wreckage from the Property (\$200.00) Landlord's Position**

106. The landlord testified that the tenant left all sorts of debris and garbage as well as a golf cart on the residential premises after he vacated. She provided pictures of the claimed abandoned wreckage as well (see page 22 in L#3). The landlord testified that she did not have to pay to have any items removed, and that the golf cart was removed by someone else without her involvement.

### **Tenant's Position**

107. The tenant testified that the majority of pictures provided by the landlord of wreckage were taken while the tenant was in the process of preparing to vacate the rental premises. The tenant acknowledged leaving behind the golf cart. He testified that he attempted to remove the golf cart, but was unable to due to its weight.

### **Analysis**

108. Because the majority of items photographed by the landlord were removed by the tenant by the time the tenant vacated, I do not considered them abandoned possessions and or wreckage. I do however recognize the abandoned golf cart as wreckage and am prepared to award compensation for it remaining on the property after it was vacated. Because the golf cart was later removed at an unspecified period, I will award  $\frac{1}{4}$  of the requested compensation.

### **Decision**

109. The landlord's claim for compensation for damage for removal of wreckage succeeds in the amount of \$50.00.



## **Claim #21 – Replacement of new exterior door knob (\$100.00)**

### **Landlord's Position**

110. The landlord testified that it cost her \$150.00 to replace the door knob and that she had to replace the door knob because the knob had been replaced by the tenant and the tenant did not leave her a key for the knob.

### **Tenant's Position**

111. The tenant testified that he replaced the door knob because it was sticky. He provided a photo to depict the new door knob as part of his proof for replacing the door bell that had been an item on the landlords July 13 2021 request for repairs (T#6). He testified that he would have left the key.

### **Analysis**

112. The tenant altered the landlord's property without permission. He also did so in a way that resulted in him not replacing like for like (e.g., replacing a specific door knob with a generic door knob). However, the landlord failed to establish the state, quality or costs of the doorknob that existed at the rental premises prior to it being replaced by the tenant. As such, I have limited guidance for awarding replacement costs, other than knowing the knob would have been new in 2009.

113. According to Residential Tenancies Policy 9-005 Depreciation and Life Expectancy of Property, door knobs have an expected serviceable life of 15 years. Consequently, the knob that was replaced was nearing the end of its serviceable life, thereby entitling the landlord to only a depreciated portion of the costs that she was claiming.

- $100/15 \times 2 = \$13.30$

### **Decision**

114. The landlord's claim for compensation for damage specific to the exterior door knob succeeds in the amount of \$13.30.

## **Issue 2: Security Deposit \$1,500.00**

### **Landlord's Position**

115. The landlord testified that she collected a \$1,500.00 damage deposit from the tenant and that she wished to apply this amount against monies owing for damages.

### **Tenant's Position**

116. The tenant testified that he believed the \$1,500.00 security deposit he paid was "last month's rent". In support of this argument, the landlord submitted a photo of

her texts with the tenant where he writes that he paid “my first and last months rent” and that “a damage deposit is not “\$1,500.00” (L#27).

## **Analysis**

117. The landlord’s application for use of the security deposit is not straightforward because a) The landlord collected more than the permissible amount (subsection 14(1) of the *Act*); and b) the tenant believed that monies paid were attributed to rent for September 2021.

118. I note upon reviewing the rental agreement provided by the landlord, that paragraph 13 on page 2 (L#2) reads as follows:

*On execution of this Lease, the Tenant will pay the Landlord a security deposit of \$1,500.00 (the “last months rent”)*

119. It was upon this provision that the tenant believed his rent for September 2021 were paid. Where section 12 of the *Act* prohibits landlords from collecting future rent from tenants, subsection 14(3) of the *Act* allows the tenant to “deduct the overpayment” from rent. As such, I find that the \$1,500.00 collected by the landlord in excess of the September 2020 rent, was fully dispatched as rent in the name of the tenant for September 2021.

120. As such, I find that the landlord is no longer holding a security deposit in any amount from the tenant and so, no monies remain to be ordered to apply against monies owed for damages.

## **Decision**

121. The landlord’s application for an order to use the security deposit in the amount of \$1,500.00 does not succeed.

**Summary of Decision**

122. The landlord is entitled to a payment of compensation damages from the tenant in the amount of \$718.30 for the following:

- a) Garage Window ..... \$330.00
- b) French Door .....\$175.00
- c) Bedroom .....\$200.00
- d) Wreckage .....\$50.00
- e) Exterior door knob .....\$13.30
- f) Total..... \$718.30

16 June 2022

\_\_\_\_\_

Date

