

IN THE MATTER between **JW**, Applicant, and **MB**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5
(the "Act");

AND IN THE MATTER of a hearing before **Adelle Guigon**, Rental Officer,

BETWEEN:

JW

Applicant/Landlord

-and-

MB

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 25, June 2, and October 25, 2016

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: JW, applicant
MB, respondent

Date of Decision: December 12, 2016

REASONS FOR DECISION

An application to a rental officer made by JW as the applicant/landlord against MB as the respondent/tenant was filed by the Rental Office February 1, 2016. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The applicant personally served a copy of the filed application on the respondent February 8, 2016.

The applicant alleged the respondent had caused damages to the rental premises, left the rental premises in an unclean state, and incurred costs associated with moving abandoned personal property into storage. An order was sought for payment of costs for repairs, cleaning, and moving abandoned personal property.

Hearings scheduled for March 8, April 13, and August 23, 2016, were postponed by mutual agreement. Hearings were scheduled for May 25, June 2, and October 25, 2016, in Yellowknife. Mr. JW appeared at all three hearing dates as applicant. Mr. MB appeared at all three hearing dates as respondent.

Preliminary matter

The application to a rental officer spells the respondent's name as MB. The respondent confirmed at hearing that the correct spelling of his name is MB. It was agreed the application to a rental officer would be amended accordingly, and the style of cause going forward will reflect the respondent's name as MB.

Tenancy agreement

The parties agreed and evidence was presented establishing a tenancy agreement between the parties. The tenancy originally commenced October 7, 2009, under a joint tenancy agreement with the respondent's ex-wife. On September 1, 2013, the respondent entered into a sole tenancy agreement. The sole tenancy agreement ended December 31, 2016. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Abandoned personal property

The landlord claimed costs associated with moving the respondent's camper (trailer) from the rental premises to a storage space rented by the respondent. The tenant did not dispute that the landlord had moved the property for him. I am satisfied the landlord is entitled to costs for moving the respondent's camper. The landlord did not provide a specific amount for the cost of moving the camper, stating only that he had his contractor do it. It seems to me the moving of a camper from one location to another should reasonably take no more than an hour to accomplish. I am prepared to grant the landlord \$50 for the cost of moving the camper from the rental premises to the storage space.

Security deposit

The tenancy agreements with the respondent specified security deposits of \$2,100. The landlord provided receipts showing that the respondent had paid \$1,400 of the security deposit during the joint tenancy. The parties agreed that the security deposit was transferred from the joint tenancy to the sole tenancy. The respondent claimed that the full security deposit of \$2,100 was paid, but failed to provide proof of payment beyond what the landlord's receipts indicate. I am satisfied the respondent paid \$1,400 of the security deposit. Interest on the security deposit will be calculated from when the security deposit was paid: \$700 was received September 21, 2009, and \$700 was received October 1, 2009. The interest amounts to \$14.49.

The landlord retained the security deposit and interest against his claims for damages. Section 18(5) of the Act specifies that a landlord may not retain any amount of a security deposit against costs of repairs if either an entry inspection report or an exit inspection report was not completed. Both parties confirmed that neither reports were completed. As such, it was inappropriate for the landlord to withhold the security deposit and the landlord has breached his obligation under section 18(3) of the Act to return the security deposit to the respondent.

Repairs and cleaning

As previously mentioned, the landlord did not complete either an entry inspection report or an exit inspection report. As such, I am unable to determine the condition of the premises at the commencement of the tenancy from which to confirm damages occurring during the tenancy beyond normal wear and tear.

The tenant had moved out of the rental premises by December 15th. The respondent and out-of-town family started moving the tenant's belongings and cleaning the premises between December 10th and December 15th. The tenant did not return full possession of the rental premises to the landlord until December 31st. Between December 15th and December 31st the tenant undertook additional cleaning efforts. On December 22nd the landlord's labourers and contractors began working on cleaning and repair efforts with the tenant's consent.

Photographs of the rental premises taken some months prior to the commencement of the joint tenancy were entered into evidence. Photographs taken during repairs at the end of the sole tenancy were entered into evidence. There being no exit inspection report and the photographs being limited in scope, I am unable to determine the tenant's liability for all the repairs claimed by the landlord. Various receipts, invoices, quotes, and text messages were entered into evidence. I will assess each of the landlord's claims regarding repairs and cleaning as follows:

Locks

The landlord claimed costs to replace two exterior door locksets. The tenant disputes one of them as he returned the keys for the front door to the landlord in mid-December. The text messages support the tenant's claim. I am satisfied the tenant is responsible for replacing one of the exterior door locksets at a cost of \$193.70.

Window screens

The landlord claimed five window screens required replacement. The tenant claims the window screens were not installed at commencement of the tenancy and that the five that were damaged were that way when he found them in the crawl space after moving in. As there is no entry inspection report to substantiate either the provision or the condition of the window screens at the commencement of the tenancy, the landlord's claim for costs to replace the five window screens is denied.

Garbage disposal, moving of personal belongings, yard cleaning, and tipping fees

The landlord claimed labour costs for disposal of garbage left in the rental premises, moving of personal belongings to the tenant's new rental premises, and cleaning the yard in the amount of \$1,080, tipping (disposal) fees of \$40, and gas of \$189.86. The tenant disputes his liability for these costs, claiming that he had no expectation of being charged for the work believing the landlord was offering it as good will. The landlord denied offering the help free of charge, claiming he was simply fulfilling his obligations as a landlord by ensuring the rental premises was ready for the next tenant. The text messages make no mention of whether or not the help to move and clean up came with a price tag. While I can appreciate that the tenant was in a position where free help would have been appreciated beyond measure, it is not reasonable to expect the landlord's assistance to be given without recovery of costs. I find the respondent liable to the applicant for labour costs and tipping fees to dispose of garbage, remove personal belongings, and clean the yard in the amount of \$1,309.86.

Light bulbs

The landlord claimed \$71.10 to replace 51 burned out light bulbs in the rental premises. The tenant disputed that so many light bulbs were burned out, conceding only to five. As an exit inspection report was not completed, I am unable to determine the veracity of the landlord's claim for 51 burned out light bulbs. I find the tenant liable to the landlord for five burned out light bulbs. As I am unable to determine exactly which light bulbs required replacement, I will estimate the cost to the tenant by dividing the cost claimed by the landlord by 51 and multiplying the sum by five: $\$71.10 / 51 = \$1.39 \times 5 = \$6.97$.

Fire extinguisher

The landlord claimed costs to replace the fire extinguisher, claiming it was empty. The tenant disputes that the fire extinguisher was empty, having never used the fire extinguisher. The landlord confirmed that the fire extinguisher was last serviced prior to the tenant taking occupancy, some six years ago. As neither an entry nor an exit inspection report was completed, I am unable to determine whether or not the fire extinguisher was in good condition when the tenant moved in and whether or not it remained serviceable when the tenant moved out. The landlord's claim for replacement of the fire extinguisher is denied.

Keys for contractors

The landlord claimed costs for cutting keys for his contractors to be able to access the premises. The tenant disputed these costs as his. I am in agreement with the tenant. The necessity for the landlord to provide keys to his contractors is the landlord's cost of doing business. The landlord's claim for costs to cut keys for the contractors is denied.

Carpets

The landlord claimed costs for professionally steam cleaning the carpets throughout the rental premises and for replacing the carpets in the main floor living room, small hallway, and stairs. The landlord alleged the carpets were stained and had extensive amounts of gum residue on them. The tenant disputed that there were extensive amounts of gum residue on the carpets, admitting only to a couple of small areas. The tenant testified to and provided evidence of having steam cleaned the carpets the weekend of December 11th with a Rug Doctor rented from the Yellowknife Direct Charge Co-op. He confirmed that what gum residue there was did not come out with the steam cleaning, but that otherwise the carpets were cleaned. The tenant suggested that any staining to the carpet was either a result of normal wear and tear or occurred during the period that the landlord's workers were traipsing in and out of the rental premises after December 21st. The text messages suggest the tenant was fully aware and accepting of the requirement to professionally steam clean the carpets after he had attempted to clean them with the Rug Doctor.

The landlord confirmed that the carpets were at least 10 years old, but argued that they were a high-end carpet with a 20-year life expectancy. The landlord brought carpet sample boards with warranty cards, however, he did not bring in a sample of the existing carpet to determine the actual quality, nor did he provide any receipts or invoices for the existing carpet from which to confirm the quality and when it was installed. As neither an entry nor exit inspection report was completed, and the photographs provided do not show any stains or gum deposits, I cannot make a finding that the carpets were so extensively damaged as to require replacement. At any rate, the age of the carpets exceeds the average useful life of carpets used in residential tenancies – that being 10 years. The landlord's claim for replacement of the carpets is denied. Based on the testimony and the implications in the text messages, I am satisfied professionally steam cleaning the carpets was warranted. I find the respondent liable to the applicant for steam cleaning costs in the amount of \$330.59.

French doors

The landlord claimed costs to replace two pairs of French doors. Two of the individual doors had multiple broken glass panels, necessitating their replacement; because the landlord could no longer get the exact same style of door, he had to replace all four doors to ensure they matched. The tenant did not dispute that the glass panels in the doors had broken, although he did claim that one of the panels was cracked when he moved in. The french doors have been part of the premises since before the tenant moved in. As there is no entry or exit inspection report documenting the condition of the french doors, I am satisfied that one of the french doors' glass panels was cracked when the tenant moved in. However, each pane can be repaired independently, so the landlord would only be responsible for the pane that was broken when the tenant moved in. As other panes were broken during the tenancy, the tenant becomes responsible for their repair. The more panes that are broken the more economical it becomes to simply replace the entire door. While I do find the tenant responsible for the broken glass panels in the two french doors and consequently the replacement of those two doors, I am also satisfied the replacement of the matching doors was necessary. However, to

this point the landlord has benefitted from the use of the french doors and as such I find the tenant's costs to replace all four french doors should account for depreciation. The average useful life of interior french doors is 30 years. Estimating the age of the french doors in this rental premises at 10 years, I find the respondent liable to the applicant for the depreciated value of \$286.94 each, for a total amount of \$1,147.76.

Cleaning of kitchen, bathrooms, and porch

The landlord claimed \$970.46 for cleaning the kitchen, bathrooms, and porch. An invoice from a cleaning company was provided to support the claim. This cleaning was not completed until after December 31st. The tenant claims, and evidence supports, that he had cleaned those areas both prior to and during the contractors' presence. He submits that any remaining requirement to clean those areas was as a direct result of the contractors' presence and work, and was not his responsibility. The only exception to this claim is with regard to the oven, which required additional cleaning. The tenant's claim has some merit, in that the tenant had a right to possession of the rental premises until December 31st, and the landlord was not entitled to the premises until after December 31st – regardless of whether there was any repair work that needed to be done to bring the premises to a suitable condition for the next tenant. The tenant implied consent for the landlord to commence repairs prior to the end of the month, which certainly facilitated the landlord in securing a new tenant right away. However, the tenant should not be held accountable for cleaning up after the contractors. The landlord's claim for cleaning costs in full is denied, but I will allow two hours of cleaning the oven at the cleaning service's hourly rate of \$49.95, for a total of \$99.90.

Although the landlord made much ado regarding cleaning the hardwood flooring in the living room, no actual claim for costs associated with that cleaning was made.

Heating fuel

The landlord claimed \$545.96 for refilling the heating fuel tank during the month of December. The tenant disputed the full amount of this claim, attributing an increased use of fuel due to the contractors repeated access to the rental premises. The tenant suggested that \$545.96 for one month's worth of fuel was significantly higher than the average. However, the tenant did not provide any evidence to support the historical average fuel use for the rental premises was any different than that claimed by the landlord for December. The tenancy agreement does specify the tenant's responsibility for the fuel. I am satisfied the respondent is responsible for filling the fuel tank. I find the respondent liable to the applicant for costs to refill the fuel tank in the amount of \$545.96.

Fuel tank gauge

The landlord claimed \$135 to replace the fuel tank gauge on the fuel tank. The amount claimed is an estimate, as no invoice or receipt was provided reflecting the actual costs of replacing the fuel tank gauge. The tenant disputed this claim indicating that he was not aware that the fuel tank gauge was damaged and had not caused any such damage himself. As neither an entry nor an exit inspection report was completed, and the only photograph presented into evidence was of an undamaged fuel tank gauge, I am neither satisfied the fuel tank gauge was broken nor that the respondent is liable for the costs to repair a damaged fuel tank gauge. The landlord's claim for costs to replace a damaged fuel tank gauge are denied.

Drywall repair and painting

The landlord claimed costs to repair drywall and painting. The only evidence of any damage to the drywall was from photographs of two walls with four large stains and four areas where filler had clearly been used to fill small holes. The stains alone do appear to constitute damage requiring repainting of the two walls. The holes, while small, appear larger than the average picture hanging nail making them of a nature beyond normal wear and tear. The tenant

testified that he filled the holes with Polyfill and, as the photographs suggest, had left a smooth surface which could have been repainted after some light sanding. The landlord claimed that Polyfill was not a suitable product to repair the holes, and that by using Polyfill the tenant further damaged the walls. The landlord's contractor removed the Polyfill and refilled the holes with a different drywall compound before sanding and painting. An information page on Polyfill was provided into evidence which described Polyfill as a "water-based ready mix wall filler for indoor application" that is "highly recommended for filling cracks, leveling uneven surfaces, patching gaps and holes in concrete, dry wall, masonry, plaster, stucco, wood, wallboard and furniture that may require painting and redecorating." I am satisfied that the damages to the two walls were caused by the tenant and as such the tenant is responsible for their repair. However, I am not satisfied that the use of Polyfill to fill the holes was inappropriate and I am not satisfied that its use constituted further damage to the walls. I am satisfied that the holes were adequately filled and that the only preparatory work for which the tenant is responsible was washing the walls and doing a light sanding of the Polyfilled holes. The tenant is also responsible for repainting the two walls, as this was required to complete the necessary repairs. I estimate the work on two walls would have taken two contractors no more than 6 hours and I am prepared to grant the landlord labour and estimated materials costs in the amount of \$400.

Upstairs bathroom floor repair

The landlord claimed costs associated with repairing loose tiles in the upstairs bathroom. The tiles were not damaged. At some point during the tenancy the tiles had come loose. The tenant secured the tiles back in place with silicone adhesive. At the end of the tenancy some of the tiles were loose again. The landlord claimed that by failing to notify the landlord that the tiles had come loose in the first place and by attempting to effect repairs himself with the wrong adhesive, the tenant accepted responsibility for repairing the loose tiles with the correct adhesive. The landlord claimed that because the silicone adhesive that was used had to be replaced, his contractor had to lift all the tiles that had been secured with silicone adhesive

regardless of whether they were currently loose. No evidence was presented establishing how many tiles were loose and how many tiles had silicone adhesive. No evidence was presented establishing how old the tile work was. The landlord is responsible for maintaining the rental premises in a good state of repair throughout the tenancy. The tiles coming loose originally suggests either a problem with the adhesive that was used or that the adhesive had exceeded its useful life. While silicone adhesive will adhere tile securely, it is not recommended over thinset for floor tiles because thinset has heavier weight-bearing properties more suitable to floor tiles. However, in this instance, the tenant's use of silicone adhesive, while not recommended, also did not cause damage to the floor tiles. The landlord would have been responsible for having the floor tiles reset regardless of when they came loose. I am not satisfied the respondent caused damage to the upstairs bathroom floor tile. The landlord's claim for costs to repair the upstairs bathroom floor tile is denied.

Kitchen floor repair

The parties agreed that a section of the hardwood flooring in the kitchen had been damaged and did require repair. A photograph of the repaired section was provided into evidence. A receipt for the grout used to fill the damaged area was provided into evidence. I am satisfied the respondent is responsible for the claimed damage to the kitchen floor. I estimate the time to repair this section of flooring at two hours and I am prepared to grant the landlord labour costs in the amount of \$120 plus the costs for grout in the amount of \$48.25, for a total of \$168.25.

Replacement of kitchen and bathroom faucets

The landlord claimed costs for replacing the kitchen and bathroom faucets. Damage to the bathroom faucet was referenced in the text message conversations between the landlord and tenant, and the tenant did not dispute the damage to the bathroom faucet. A receipt for the replacement bathroom faucet was included in the landlord's submissions. No previous mention was made regarding the kitchen faucet, there were no entry and exit inspection reports

documenting a damaged kitchen faucet, there were no photographs of a damaged kitchen faucet entered into evidence, and there was no receipt reflecting the purchase of a replacement kitchen faucet entered into evidence. I am satisfied the respondent is responsible for the damaged bathroom faucet. I am not satisfied that the kitchen faucet was damaged. I estimate the time to replace the bathroom faucet at two hours and I am prepared to grant the landlord labour costs in the amount of \$120 plus the cost of the replacement bathroom faucet of \$140.14, for a total of \$260.14.

Grind pump replacement (garburator)

The landlord claimed costs to replace a damaged garburator. The tenant testified that the garburator broke within weeks of moving into the rental premises. The tenant testified that he notified the landlord that the garburator broke and the landlord told him to go ahead and have it repaired himself. The tenant could not afford the cost of repairs and decided that the garburator was an unnecessary luxury, leaving it as is. I am satisfied the garburator was provided as part of the rental premises under the tenancy agreement. The landlord is responsible to provide and maintain the rental premises in a good state of repair, as such the landlord is responsible for repairing the garburator. I am not satisfied the garburator was damaged by an act of the tenant. The landlord's claim to repair or replace the garburator is denied.

Sink repair

The landlord claimed costs to repair a sink. No supporting evidence was presented from which to establish either that a sink was damaged or the nature of the damage. I am not satisfied the respondent is responsible for damaged caused to a sink. The landlord's claim to repair a sink is denied.

Replace bifold (closet) doors

The landlord claimed costs to replace closet doors and hinges. The tenant disputes the closet doors were damaged beyond normal wear and tear. No photographs of the alleged damages were presented. No entry or exit inspection reports were completed to document the alleged damages. I am not satisfied based on what has been presented that any damage to the closet doors was caused by the tenant's negligence or misuse. The landlord's claim for costs to replace closet doors is denied.

Reconfigure washer and dryer

The landlord claimed labour costs to reconfigure the placement of the washer and dryer. The tenant disputed this claim, stating the washer and dryer were in the same configuration as when he moved into the rental premises. I am not satisfied the configuration of the washer and dryer was changed during the respondent's tenancy. The landlord's claim for costs to reconfigure the placement of the washer and dryer is denied.

Replace fan cover

The landlord claimed costs to replace a fan cover. No evidence was provided establishing which fan was replaced or why it needed to be replaced. I am not satisfied the respondent is responsible for damaging a fan. The landlord's claim is denied.

Replace sunroom molding

The landlord claimed costs to replace the molding around the doors to the sunroom. No evidence was presented establishing the nature of the damages. No entry or exit inspection reports were prepared documenting the condition of the molding. I am not satisfied the respondent is responsible for the claimed damages. The landlord's claim is denied.

Replace weather stripping and threshold

The landlord claimed costs to replace the weather stripping and threshold to one of the exterior doors. The landlord suggested the tenant's dog caused the damage. No evidence was presented establishing the nature of the damages. No entry or exit inspection reports were prepared documenting the condition of the weather stripping and threshold. No information was provided regarding the age of the weather stripping. I am not satisfied the nature of the claimed damages has been established from which to determine the tenant's responsibility. The landlord's claim is denied.

Repair (kitchen) cupboard door and drawer front, and replace cabinet door hinges

The landlord claimed costs to repair a kitchen cupboard door and drawer front, and to replace kitchen cabinet door hinges. No evidence was presented establishing the damages. No entry or exit inspection report was prepared documenting the condition of the kitchen cupboard doors, drawer fronts, or hinges. I am not satisfied the tenant is responsible for the damages as claimed. The landlord's claim is denied.

Repair bathroom t-bar ceiling

The landlord claimed costs to replace and repair bathroom ceiling tiles. The landlord suggested that the ceiling tiles were missing likely due to water damage from a claimed pipe freeze-up during the tenancy. The tenant disputed that the bathroom ceiling tiles were missing or damaged due to any negligence on his part, claiming that the bathroom ceiling tiles were missing when he moved into the rental premises. The tenant also disputed the suggestion that there had been a freeze-up during the tenancy or that there had been a leak in the bathroom. No photographic evidence was presented establishing the condition of the ceiling tiles in the bathroom. No entry or exit inspection report was prepared documenting the condition of the ceiling tiles in the bathroom. I am not satisfied that the respondent is responsible for the condition of the ceiling tiles in the bathroom. The landlord's claim is denied.

Repair furnace room door

The landlord claimed costs to repair the furnace room door. No evidence was presented establishing that the furnace room door was damaged. No entry or exit inspection report was prepared documenting the condition of the furnace room door. I am not satisfied the respondent is responsible for damaging the furnace room door. The landlord's claim is denied.

Replace smoke detector

The landlord claimed labour costs to replace two smoke detectors. One was hardwired into the rental premises, the other was battery powered. The hardwired detector was found hanging by its wires from the ceiling. The battery-powered detector was missing. The tenant admitted in the text messages that he had a replacement battery-powered detector but had not gotten around to installing it. The tenant acknowledged that the hardwired detector was hanging from the ceiling, but that it had fallen through no fault of his own. I have difficulty believing that the hardwired detector fell of its own accord. I am satisfied the respondent is responsible for the condition of both detectors. The labour costs were not specifically defined in the provided invoice from the contractor. I am prepared to grant the landlord a half hour of labour to reinstall the smoke detectors at a rate of \$60 per hour for a total of \$30.

Yard cleaning and dump runs (disposal)

The landlord claimed labour costs and dump trailer rental for multiple dump runs. The landlord claimed 10 dump runs to dispose of garbage left behind by the tenant, one of which was previously allowed in relation to yard cleaning under "Garbage disposal, moving of personal belongings, yard cleaning, and tipping fees", above. The tenant disputed that he had left that much garbage behind, conceding only to the equivalent of one dump run. The contractor's invoice does not specify how many dump runs he made and how much time was spent making the dump runs. The landlord provided 10 receipts from the City of Yellowknife waste disposal facility. Five of those were for mixed-waste disposal at \$10 each; two were for disposal of tires at \$25 and \$35; two were for disposal of automotive batteries at \$35 and \$17; and one was for disposal of appliances at \$160.

With respect to the mixed-waste disposals, one dump run was made each on December 21st, December 24th, January 5th, and January 7th (the one made May 6th was previously discussed). Construction in the rental premises was started December 22nd. There is no evidence to support the amount of garbage claimed as left behind by the tenant in excess of that admitted to by the tenant. It seems likely that any mixed-waste garbage accumulated during construction was generated as a result of the construction itself rather than any contribution by the tenant. I am prepared to grant the landlord costs for disposal of mixed-waste in the amount of \$10 for the tipping fee plus one hour's labour in the amount of \$60, for a total of \$70.

With respect to the disposal of tires and automotive batteries, the landlord claimed these items were left in the yard and/or garage or shed by the tenant. There was no dispute from the tenant that these items were left behind. I am satisfied the tenant is responsible for the disposal fees related to the tires and automotive batteries. I am prepared to grant the landlord costs for disposal of the tires and automotive batteries in the amount of \$112 for the tipping fees plus two hour's labour in the amount of \$120, for a total of \$232.

The issue of the appliances will be addressed elsewhere in these reasons for decision.

The rental of the dump trailer is denied as it would have been required to dispose of mixed-waste accumulated as a result of the construction.

The yard itself required cleaning of debris which revealed itself after the snow melted. The tenant questioned whether or not the debris found in the yard could reasonably be attributed to his tenancy given the four-month period between when he moved out and when the snow melted. In my opinion, the debris can reasonably be attributed to the tenant as it seems unlikely that the new tenants would have had sufficient occasion during the coldest months of the year to use the yard to the extent that the debris which became evident could have collected. I am satisfied the landlord incurred costs to clean the yard of debris and I am prepared to allow \$10 for the associated tipping fee plus four hours' labour at \$60 per hour, for a total allowed claim of \$250.

Other miscellaneous jobs

Included in one of the contractors' invoices provided into evidence was labour for "other miscellaneous jobs". These were undefined and as such a determination cannot be made as to the tenant's responsibility for them. The landlord's claim for labour for "other miscellaneous jobs" is denied.

Bathroom accessories

The landlord claimed costs to replace a toilet paper roller and its holder. The tenant did not dispute that a toilet paper roller was missing. I am satisfied the tenant is responsible for replacement of both items. The landlord's claim of costs for the replacement of a toilet paper roller and its holder in the amount of \$20.83 is granted.

Door stop

The landlord claimed \$3.35 to replace a door stop. No evidence was presented establishing that any of the door stops were missing. The landlord's claim is denied.

Kitchen counter silicon sealant (caulking)

The landlord claimed costs to replace the silicon seal around the kitchen counters, claiming that the caulking was stained and damaged by years of accumulated kitchen grease. The tenant disputed this claim, testifying that the kitchen counters were cleaned during and at the end of the tenancy in the ordinary course of things. No evidence was presented to establish the degree of damage to the caulking. No entry or exit inspection report was completed to document the condition of the caulking. No evidence was presented confirming when the caulking was last installed or replaced. I am not satisfied the tenant is responsible for damaging the kitchen counter caulking beyond normal wear and tear. The landlord's claim is denied.

Perennials and shrubs

The landlord claimed costs for replacement of perennials and shrubs, claiming that plants present at the commencement of the tenancy were no longer present or were dead. The tenant disputed this claim. Photographs taken prior to the tenant's occupancy were entered into evidence establishing that there were what appear to be green shrubs along the front of the house and there were some kinds of plants along the back of the house. It is difficult to determine the type of plants and their status. No evidence was presented reflecting the condition of the plants, either at the end of the 2015 warm season or the beginning of the 2016 warm season (it would be impossible to determine such during the winter months). I am not satisfied there is enough evidence to establish the condition of the plants around the exterior of the house or the tenant's responsibility for them. The landlord's claim is denied.

Fireplace grill

The landlord claimed costs to replace a fireplace grill. The tenant disputed this claim. No entry or exit inspection report was completed documenting that a fireplace grill was provided with the rental premises and, if one was provided, what condition it was in at the end of the tenancy. A photograph was provided of what appears to be a fireplace grill on top of an exterior fire pit. The tenant testified that it was one he obtained himself and not one that was provided with the rental premises; the tenant built the fire pit as well. I am not satisfied that a fireplace grill was provided with the rental premises. The landlord's claim is denied.

Walls and floors in sump pump room and boiler (furnace) room

The landlord claimed costs associated with patching, painting, and repairing the walls and floors in the sump pump room and the boiler room. He provided an undated estimate from a contractor for this work.

With respect to the basement living area, no evidence was provided establishing the condition of the walls or floors. No entry or exit inspection reports were completed documenting the condition of the basement living area. I am not satisfied the respondent is responsible for the condition of the basement living area. The landlord's claim for costs to patch, paint, and repair the basement living area walls and floors is denied.

With respect to the sump pump room, no evidence was provided establishing the condition of the walls or floors. No entry or exit inspection reports were completed documenting the condition of the sump pump room. I am unable to determine from the photographs provided which if any of the photographs might depict the sump pump room specifically. I am not satisfied the respondent is responsible for the condition of the sump pump room.

With respect to the boiler (furnace) room, the landlord provided photographs of the furnace room taken prior to the tenant's occupancy of the rental premises which depict a clean area, with some ordinary staining on the floor and a few dark marks on the walls. The landlord also provided photographs taken after the tenant vacated the rental premises which depict significant staining to the floor. I find it difficult to attribute the extent of staining to normal wear and tear as it appears evident that something was stored in the room for a period of time which may have leaked something, and that the floor was not adequately cleaned by the tenant during the tenancy, let alone at the end of the tenancy. No evidence was provided establishing the condition of the walls in the furnace room. I am satisfied the respondent is responsible for the condition of the floor in the furnace room, but not for the walls. I am prepared to grant the landlord costs to clean and refinish the floor based on an estimate of four hours' labour at \$40 per hour for a total of \$160 plus the estimated cost \$50 for floor paint; the total allowed monetary claim is \$210.

Blinds, sheers, and drapes

The landlord claimed costs associated with replacing nine window blinds, four sets of sheers, and four sets of drapes at an estimated value of \$4,975. The tenant disputes this claim, stating that what window coverings were provided were old and damaged at commencement of the tenancy and that he replaced some of them with blackout drapes. The landlord provided photographs of the rental premises taken during a tenancy some time prior to this tenancy; the premises at the time was furnished with a previous tenant's property – the possibility exists that some, if not all, of the window coverings represented in those photographs may have

belonged to the previous tenants. No mention is made in the written tenancy agreement that window coverings are included in the rental premises. No entry or exit inspection reports were prepared documenting whether or not window coverings were provided or what condition they may have been in. No photographs were provided showing the condition of any remaining window coverings at the end of the tenancy. I am not satisfied that there is enough evidence to support the landlord's claim of damaged or missing window coverings, nor am I satisfied that there is any evidence to establish the age of any window coverings that might have been provided. Therefore, I am unable to determine the respondent's responsibility for their condition and because there is no evidence of how many window coverings might have been provided I am unable to determine the respondent's responsibility for any that might be missing. The landlord's claim is denied.

Back doors

The landlord claimed costs for sanding and painting the back exterior door trim. The landlord testified that a verbal estimate was provided to him by a contractor for this work. Because the tenancy ended in the middle of winter, the repair work could not be completed at the time. Photographs provided do show an excessive amount of wear to the strike plate side of two doors' trims. The amount of wear appears to be beyond what could be considered normal wear and tear. I am satisfied the respondent is responsible for the damages to the trim on the exterior doors. The landlord's claim of \$225 to effect these repairs is granted.

Appliances

The landlord claimed costs associated with replacing a dishwasher and disposing of a damaged dishwasher, washer, and dryer. All three appliances were provided as part of the tenancy agreement. The tenant testified that due to his youngest daughter's medical condition he replaced the three appliances with versions that had high sanitation features. The original three appliances were disconnected and stored in the garage. The tenant left all the appliances behind when the tenancy ended. The landlord disputed the tenant's arguments, stating that

the appliances were switched out because they had been damaged during an alleged freeze up, and that the original appliances were already high-end appliances. The alleged freeze up will be discussed later. The landlord disposed of all three appliances which were stored in the garage and kept the replacement appliances which remained in the house. The landlord claimed the dumping fees for the appliances. The landlord also claimed costs to replace the remaining dishwasher, suggesting that it too was marginally damaged as it required a piece of cardboard to keep the door closed. The tenant disputed this was the case. No evidence was provided establishing damages to any of the six appliances. When asked whether he actually tested the appliances that were stored in the garage to see if they were still working, the landlord obfuscated and only reiterated his belief that they were damaged by water freeze up. The tenant disputed that any of the appliances stored in the garage suffered any damages. Although I am not satisfied there is enough evidence to determine that the stored appliances were damaged, I am satisfied that the respondent was responsible for either reinstalling them into the rental premises upon terminating the tenancy or otherwise disposing of them. I will allow the landlord's claim for disposal of the three stored appliances at a cost of \$160 plus one hour's labour at \$60 for a total of \$220.

As I understand the remaining dishwasher is still being used by the current tenants in the rental premises, and there being no evidence to support the landlord's allegation that it requires a piece of cardboard to keep the door closed, I am not satisfied that the remaining dishwasher was damaged or that the respondent is responsible for replacing it. The landlord's claim for costs to replace the dishwasher is denied.

Float glass sash repair

The landlord claimed costs to repair a broken window in the sunroom. An invoice dated January 7, 2016, was provided for the repair. No evidence was provided establishing a broken window, how it was broken, or when it was broken. No entry or exit inspection reports were completed documenting the condition of the sunroom windows. Considering the date the repair invoice was completed, there is the possibility that the window may have been damaged after the tenancy ended. I am not satisfied there is enough evidence to make a finding that the respondent is responsible for the damaged sunroom window. The landlord's claim is denied.

Administrative costs

The landlord claimed costs associated with the purchase of ink, paper, and a thumb drive, and the application filing fee. All of these are denied as costs of doing business.

The landlord also claimed costs for him to supervise his workers and contractors at an hourly rate of \$80. As I have said in previous decisions, while I can appreciate an extra administrative cost may be incurred by a landlord for work that becomes necessary due to damages beyond normal wear and tear, there is an inherent cost of doing business which comes with the care and maintenance of rental premises for which the tenant cannot be held liable. There was no agreement as part of the tenancy for any administrative costs to be added to any costs for repairs or cleaning that the tenant might be responsible for. The landlord's claim for site supervisor fees is denied.

Frozen pipes and valves

The landlord claimed costs associated with effecting repairs related to an alleged freezing of water pipes. In February 2016 the landlord began hearing complaints from the new tenants of random failures in the house. It was then that he was lead to believe that the house had frozen at some point in the past and that both hot and cold pipes had burst. A plumber attended in April 2016 who found and repaired a leak, and while doing so found some valves in the house didn't work, recommending their replacement. The applicant obtained a quote sometime in June 2016 from the same plumber for inspecting the piping and repairing any swollen or damaged pipes which might be found, and to replace the hot water tank which was found to be leaking; the quote was rendered in the amount of \$12,500 plus GST. The landlord brought in a section of piping that had burst as an example of what it looks like. The inspection and any related repairs were not yet conducted.

The landlord submitted a written statement purported to be signed by the respondent's neighbour confirming that in the spring of 2015 the rental premises had run out of fuel while the respondent was away causing the furnace to shut down; when the fuel was refilled and the furnace restarted, a pipe burst, at which time the neighbour turned the water valves off, except the circulation pump. The tenant questioned the authenticity of the written submission as being from the neighbour. The neighbour was not called to testify in person. The written submission was not in the form of a sworn affidavit.

The tenant testified that the furnace had failed in March 2014, not 2015. The tenant was on medical travel with his daughter at the time, but his respite worker was checking the rental premises daily and feeding the cat. When the respite worker noticed the house was colder than usual they sought assistance from the respondent's neighbour and together they determined that the fuel tank was low on fuel. The respondent confirmed that he was in fact on an automatic refill service. The respite worker and the neighbour got the furnace started again, and then discovered water was leaking from somewhere. They shut the water off to stop the leak. When the tenant returned, he tracked the leak down to a 90 degree elbow where the soldering had failed. It was clear to the tenant upon finding the leak that previous attempts had been made to repair the piping. The tenant repaired the elbow and no other leaks were noted. The tenant disputed that the house froze up during his tenancy.

The tenant disputed any responsibility for the hot water tank, which was not defective when he moved out of the rental premises. The hot water tank had last been replaced in 2013.

While it does seem that an incident occurred in March 2014 which resulted in a soldered pipe elbow failing, I am satisfied the respondent effected the necessary repair to prevent any further damages. Had any further damage occurred to the pipes it would have been evident to the respondent well before the end of the tenancy, and I have no reason to believe the tenant would not have reported any substantial problem with the pipes to the landlord in that instance.

I am not satisfied that there is substantive evidence of broken water pipes or of damages related to existing leaks. Nor am I satisfied that there is any evidence that the issues arising during the current tenancy are as a result of damages occurring during the respondent's tenancy. Because there is no evidence to support the allegation that the pipes burst due to freezing and that any such freezing actually occurred during the respondent's tenancy or as a result of the respondent's negligence, I am unable to make a finding that the respondent is responsible for any of the claimed damages. The plumber's quote is a quote for work yet to be

done; it is not evidence of any particular or confirmed damage, either for the pipes or for the hot water tank. And there is neither an entry nor an exit inspection report to support either the condition of those things at the start of the tenancy or at the end of the tenancy. The landlord's claim for costs related to repairing the pipes and replacing the hot water tank are denied.

Summary of allowed claims

To summarize, of the landlord's claims the following are allowed:

Replacement of one exterior door lockset	\$193.70
Garbage disposal, moving of personal belongings, yard cleaning, and tipping fees	\$1,309.86
Light bulbs	\$6.97
Carpet steam cleaning	\$330.59
French doors	\$1,147.76
Cleaning oven	\$99.90
Heating fuel	\$545.96
Drywall repair and painting	\$400.00
Kitchen floor repair	\$168.25
Replace bathroom faucet	\$260.14
Replace smoke detectors	\$30.00
Yard cleaning and dump runs	\$552.00
Bathroom accessories	\$20.83
Furnace room floor repair	\$210.00
Exterior door trim	\$225.00
Disposal of appliances	\$220.00
Total	<u>\$5,720.96</u>

Orders

An order will issue requiring the applicant to return to the respondent the security deposit and interest in the amount of \$1,414.49.

An order will issue requiring the respondent to pay to the applicant costs of repairs and cleaning in the total amount of \$5,720.96.

Adelle Guigon
Rental Officer