



**Order under Section 89  
Residential Tenancies Act, 2006**

**Citation:** Chicerman v Ramsay-Edwards, 2023 ONLTB 72850

**Date:** 2023-11-07

**File Number:** LTB-L-010183-23

**In the matter of:** 47 BUTCHER CRES  
BRANTFORD ON N3T0P2

**Between:** Eugeniu Chicerman Landlord

**And**

Matthew Ramsay-Edwards Former Tenants  
Crystal Brady

Eugeniu Chicerman (the 'Landlord') applied for an order requiring (the 'Former Tenants') to pay the Landlord's reasonable out-of-pocket costs that the Landlord incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Former Tenants, another occupant of the rental unit or someone the Former Tenants permitted in the residential complex.

This application was heard by videoconference on October 19, 2023.

Only the Landlord and his witness Gary Pozdirca attended the hearing.

As of 11:39 am, the Former Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Landlord. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence

**Determinations:**

1. As explained below, the Landlord proved some of the allegations contained in the application on a balance of probabilities. Therefore, an order for damages will issue against the former Tenants as detailed below.
2. I am satisfied that the Landlord served the Former Tenants with the application and Notice of Hearing in accordance with subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the "Act") and Rules 3.3 and 5.8 of the LTB's Rules of Procedure. These documents were served on August 12, 2023 by mail to the Former Tenants' current address. The Landlord stated that he hired a private investigator to locate the Former Tenants, the package mailed was not returned to the Landlord.
3. The Former Tenants vacated the rental unit on May 31, 2022.
4. The application was filed within one year after the Former Tenants ceased to be in possession of the rental unit.

*Compensation for Damage*

8. The Former Tenants, another occupant of the rental unit or a person whom the Former Tenants permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex.
9. This claim is made by way of s.89 (1) of the Act. That provision reads as follows:

A landlord may apply to the Board for an order requiring a tenant to pay reasonable costs that the landlord has incurred or will incur **for the repair of or, where repairing is not reasonable, the replacement of damaged property**, if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.

[Emphasis added.]

10. The application claims an amount of \$17,100.34 under s.89(1).
11. The Landlord, following his testimony opted not to call his witness to testify.
12. It was the uncontested evidence of the Landlord that upon a move out inspection around June 6, 2023, he noted significant damage to the rental unit; specifically, the walls, window and door, carpet and floors, fridge, dishwasher, stove, washer and dryer, kitchen cabinets, oil spills on the driveway and excessive garbage. The Landlord claims a total of \$17,100.34 that he will incur to repair and or replace the damaged property that cannot

reasonably be repaired. He said that due to the amount of damage, he is unable to re-rent the unit and the costs are significant.

13. The Landlord's disclosure included; photographs, estimates and various documents. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.

#### *Walls/Windows/Doors*

14. It was the uncontested evidence of the Landlord that the rental unit sustained significant damage to most of the unit as much of the walls, cabinetry and surfaces contained excessive crayon, marker and paint markings. The Landlord said that he consulted a contractor who attempted to clean the areas and said a special paint was required to cover and restore the wall. The Landlord successfully cleaned many surface areas and is therefore not seeking remedy for the areas of success. The Landlord sought multiple estimates and selected the most economical. The work has yet to be completed for financial reasons. I was satisfied the Landlord will incur costs of **\$6,587.90** for the treatment and re-painting of the rental unit. An order will issue accordingly.

#### *Floors and Carpet*

15. The Landlord's evidence shows that the carpets in various areas of the rental unit are damaged with excessive stains. He said the rental unit was new construction around the time the Tenants moved in and the carpets were in good condition. The Landlord said that he contacted a professional company to steam clean the carpets but was advised that due to the amount of staining, they would need to be replaced. He obtained three quotes and is seeking the lesser of the three in the amount of **\$4,700.80**. Due to the total damage costs, he has not yet undertaken to replace the carpets but fully intends to as they must be replaced in order to re-rent the unit. The estimates are based on comparable replacement value. The Landlord was able to successfully clean the tiles and is therefore not seeking remedy. I am satisfied with the efforts made by the Landlord to clean the damaged carpet and the estimate to replace. An order will issue accordingly.

#### *Appliances*

16. Based on the evidence before the Board, I was not satisfied that the Landlord should be awarded for the damage claim to the appliances. For various reasons, I do not find that the items were damaged. I do acknowledge some cosmetic damage but the Landlord confirmed the refrigerator was operational with the exception of the freezer but he did not attempt to repair nor clean the fridge.
17. The cabinet drawer of the stove is somewhat bent and will not close properly and the lower element is not working. However, the Landlord did not attempt to replace the

element to see if the oven was damaged. I do not find the Landlord took reasonable steps to investigate the degree of damage.

18. I do find however, the dishwasher sustained damage as it repeatedly leaks as the door was bent and broken with improper seal as well it would not turn on. Although he did not seek a repair estimate, based on the evidence before the Board and my knowledge of similar like circumstances, I find the Landlord will incur comparable costs to replace around **\$499.00**. An order will issue accordingly.
  19. As for the stackable washer and dryer, the Landlord said that it made noise when started and it "might be too expensive to fix". In my view the Landlord did not take reasonable effort to assess the damage and functionality of these items.
  20. I was not satisfied with the Landlord's claim for damage to the driveway with respect to an oil spill.
  21. With respect to the claim for garbage removal and cleaning, the Landlord said that he was put on notice to remove offending garbage around the residential complex. The Landlord said he hired a professional cleaner to freshen up the rental unit. Based on the evidence before the Board, I was not satisfied with the Landlord's claim as it pertains to cleaning and garbage.
  22. I do find that the Landlord did incur or will incur some of the expenses as claimed in the application and reasonable efforts were made to repair and or clean without success. The Landlord's estimates for these items were reasonable and he claims the most economical estimate from each category.
12. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

**It is ordered that:**

1. The Former Tenants shall pay to the Landlord \$11,787.70, which represents the reasonable costs the Landlord incurred or will incur as a result of the damage.
2. The Former Tenants shall pay to the Landlord \$201.00 for the cost of filing the application.
3. The total amount the Former Tenants owe the Landlord is \$11,988.70\*. See Schedule 1 for the calculation of the amount owing.
4. If the Former Tenants do not pay the Landlord the full amount owing on or before November 18, 2023, the Former Tenant will start to owe interest. This will be simple interest calculated from November 19, 2023 at 7.00% annually on the balance outstanding.

**November 7, 2023**

**Date Issued**

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Dana Wren  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor Toronto  
ON M7A 2G6

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

\* Refer to the attached Summary of Calculations.

**Schedule 1 SUMMARY  
OF CALCULATIONS**

**Amount the Former Tenant must pay the Landlord:**

Damage Costs	\$11,787.70
Application Filing Fee	\$201.00
Total amount owing to the Landlord	\$11,988.70