SMALL CLAIMS COURT OF NOVA SCOTIA
Citation: *Doxey v. McGraw*, 2025 NSSM 78

Date: 20251124
Docket: 538838
Registry: Yarmouth

Between:

L. Doxey & M. Lavoie

v.

A. McGraw, D.J. Cronin, D. Cronin, J. McGraw

Adjudicator:	Sarah A. Shiels
Heard:	September 9 and 23, 2025 Final written submissions filed September 25, 2025
Decision:	November 24, 2025
Counsel:	Claimants, self-represented Debbie Steinman (not counsel), representative for the Defendants

By the Court:

Background

[1] The claimants, L. Doxey & M. Lavoie, seek payment of $7,500 for default of a rent to own contract. Their claim refers to payment of property taxes, damage to home and property, emotional distress, and the cost to stay in Nova Scotia. The defendants, A. McGraw, D.J. Cronin, D. Cronin, J. McGraw, dispute the claim on the basis that rent payments were made in full for January through August 2024 and the property was not left in the condition alleged by the claimants. The defendants assert that rental payments covered the cost of the property taxes and that there was only one visit in February 2024.

[2] Following an initial pre-trial conference call on June 4, 2025, this matter was adjourned without day in Small Claims Court so that the parties could pursue the matter before the Residential Tenancies Board.

[3] On July 21, 2025, a Residential Tenancies Officer determined that no legal relationship existed between the parties under the *Residential Tenancies Act*, RSNS 1989, c 401. With respect to the “Purchase and Sale Agreement”, defined by the Officer as a document containing an agreement between parties for the transfer of

ownership of real property, the Officer ruled that it was inappropriate for the parties to seek a remedy pursuant to the *Residential Tenancies Act* regarding any default by the purchasers in paying the purchase price to the vendor. The decision was not appealed.

[4] The action before the Small Claims Court was subsequently resumed and the matter proceeded to a hearing.

Facts

[5] Around November 29, 2023 the claimants and two of the defendants, D.J. Cronin and A. McGraw, entered into a Lease and Option Agreement ("the Agreement") with respect to real property located in Quinan, Yarmouth County. The Agreement required a deposit of $12,900 payable January 1, 2024 that was to be forfeited if the option to purchase was not exercised. The Agreement also required payment of $5,000 representing first and last months' payments, $1,000 of which was to be either credited toward the purchase price or forfeited to the vendor (i.e., the claimants).

[6] Monthly payments described as "monthly rent" were $2,500; however, $500 of each monthly payment was to be credited toward the purchase price, provided that payment was received on time. The $500 credit was to be forfeited if the

purchaser failed to make the monthly payment on or before the first day of each month. The remaining portion of $2000 was to be considered rent and not credited toward the purchase price.

[7] Clause 3 of the Agreement specified the following with respect to use and occupation:

> USE & OCCUPATION: The Property shall be used as a residence in accordance with local bylaws. The Property shall not be used for any other purpose.

[8] In the event of default on the part of the purchaser, clause 14 provided that all monthly credits accumulated, the initial option deposit, and any additional option deposits would be forfeited as liquidated damages and not as a penalty, in accordance with default provisions established in the Agreement.

[9] Clause 20 of the Agreement expressly provided that the Agreement constituted the "entire agreement between the parties"; that it was to supersede all other statements, promises and understandings; and that:

> […] no party hereto shall be bound by nor charged with any oral or written agreements, representations, warranties, statements, promises or understandings not specifically set forth in this Agreement or the schedules thereto. This Agreement may not be amended, altered or modified except by written agreement signed by all parties.

[10] The defendants D.J. Cronin and A. McGraw settled in and made the property their home. They invited their extended family to visit. Unfortunately, they

experienced financial difficulties that inhibited their ability to keep up with expenses and monthly payments.

[11] The defendants' payment delays, use of a generator, and failure to remit property taxes strained their relationship with the claimants. On August 3, 2024, the claimants informed the defendants D.J. Cronin and A. McGraw that the claimants considered them to be in default and that they would be required to vacate the property by September 15, 2024. The claimants wrote: "We wish to advise you are to leave the property and the contents as in the same condition it was when you arrived."

[12] On cross-examination, Mr. Lavoie acknowledged the claimants had received approximately $34,000 from the defendants. He said the contract was terminated because the defendants owed $500 or $600 and were always late with payments.

[13] The claimants tendered a number of photographs that showed the property in an unkempt condition. Mr. Lavoie said he estimated $30,000 worth of damage was caused. On cross-examination, he testified the $7,500 claimed comprised the cost of a cleaning person, food and gas, doors, flooring, payment of property tax, and the cost of staying in Nova Scotia. The amount of unpaid property taxes totaled $2,366.52 including interest.

[14] The defendants acknowledged that some damage was caused during the course of the tenancy such as a hole in a wall. However, they denied the house was damaged in the manner depicted by the claimants. The defendant D.J. Cronin suggested they were like any other family: they "lived there with kids" but there was "no garbage all over the house". He denied their dogs were "destructive". He said a stair railing was broken before they moved in.

Analysis

[15] The Agreement does not specify the state in which the property should be left in the event of termination. It does not specify which party is responsible for repairing damage or how damages should be assessed. It simply specifies that the claimants are entitled to retain the deposit and subsequent payments in the event of default.

[16] Mr. Lavoie's estimate of $30,000 worth of damage was not borne out by the evidence. The majority of the photographs tendered by the claimants do not depict damage to property. Even the covering email sent to Mr. Lavoie by Milton Bourque (who was not called to testify) noted that only a few of the photos showed "any actual damage". Moreover, the receipts that were provided for supplies

merely totaled $3,845.37 including the purchase of new flooring and seven new doors.

[17] The Court finds that there was no evidence that the house was not used in accordance with clause 3 respecting use and occupation.

[18] The Court finds that some minor damage to the property was caused during the course of the tenancy, the most clear example of this being a hole in one of the interior doors. However, the Court finds that it would be unjust to superimpose an obligation on the part of the tenants to pay for minor repairs that may be required as a result of their use and occupation of the property when this was not contracted for; particularly in light of the Residential Tenancies Board's ruling that no legal relationship existed between the parties under the *Residential Tenancies Act.* The Court further notes that the deposit of $12,900 retained by the claimants more than covers the amount of their claim.

[19] In sum, the Court finds that the Agreement was intended to encompass the parties' respective rights and obligations and that there is no legal basis to expand on the remedies contemplated therein.

Conclusion

[20] This claim is dismissed in its entirety. No costs shall be awarded.

Sarah A. Shiels, Small Claims Court Adjudicator