Residential Tenancies Board

RESIDENTIAL TENANCIES ACT 2004

Report of Tribunal Reference No: TR1220-004565 / Case Ref No: 0820-64018

Appellant Tenant:	Theresa Chimamkpam
Respondent Landlord:	Liqutex Limited
Address of Rented Dwelling:	7 Berkeley Road, Phibsborough, Dublin 7
Tribunal:	Eoin Byrne (Chairperson) Helen-Claire O'Hanlon, Andrew Nugent
Venue:	Remote Virtual Tribunal
Date & time of Hearing:	25 June 2021 at 10:30
Attendees:	For the Appellant/Respondent Tenants: Theresa Chimamkpam, Elias Jegede, Samoondri Lallbeharry (Appellant/Respondent Tenants) Michelle Russell, Oisín Miliano, Jack Ferguson, Tommy Gavin (Tenants' representatives) For the Respondent/Appellant Landlord: Peter Keatley (Landlord's representative) Grainne White (Landlord's solicitor)
In Attendance:	RTB appointed stenographer/logger.

1. Background:

On 14 August 2020, the Tenant in this case, Ms. Chimamkpam, made an application to the Residential Tenancies Board ("the RTB") pursuant to s. 76 of the Residential Tenancies Act 2004, as amended ("the Act"). The matter was referred to an adjudication which took place on 15 October 2020. The adjudicator determined that:

"In the matter of Theresa Chimamkpam [Applicant Tenant] and Liqutex Limited [Respondent Landlord], the Residential Tenancies Board, in accordance with Section 97 of the Residential Tenancies Act, 2004, as amended, determines that:

1. The Respondent Landlord shall pay the total sum of €9,729.05 to the Applicant Tenant, within 28 days of the date of issue of the Determination Order, being damages of €11,500 for breach of landlord obligations pursuant to Section 12(1)(a) of the Act, by unlawfully interfering with the Applicant Tenant's right to peaceful and exclusive occupation, having deducted the sum of €1,770.95 in rent arrears, in respect of the tenancy of the dwelling at 7 Berkeley Road, Phibsborough, Dublin 7;

2. The Applicant Tenant shall pay rent from 15th October 2020, being the date of the Adjudication Hearing, to the Respondent Landlord at the rate of €400 per month, unless lawfully varied, and any other charges as set out in the terms of the tenancy agreement, for each month or part thereof, until such time as the above dwelling is vacated by the Applicant Tenant and any other persons residing therein."

Subsequently a valid appeal was received from the Tenant by the RTB on 8 December 2020 and from the Landlord on 9 March 2021.

The RTB constituted a Tenancy Tribunal ("the Tribunal") and appointed Eoin Byrne, Helen-Claire O'Hanlon and Andrew Nugent as Tribunal members, pursuant to ss. 102 and 103 of the Act and appointed Eoin Byrne to be the Chairperson of the Tribunal ("the Chairperson").

On 02 March 2021, the parties were notified of the constitution of the Tribunal and provided with details of the date, time and venue set for the hearing.

On 24 March 2021, the Tribunal convened a virtual hearing by Microsoft Teams at 10:30am. The hearing was adjourned from time to time and ultimately, along with the two related cases, the hearings were concluded on 25 June 2021.

2. Documents Submitted Prior to the Hearing Included:

RTB File.

3. Documents Submitted at the Hearing Included:

There was no further documentation submitted at the hearing; after the conclusion of the related hearings, the Tribunal allowed further time for submission of final evidence and closing submissions, allowing each side seven days to reply to any submissions made by the other party. After this period had concluded, the Tribunal moved on to consider its decision.

4. Procedure:

The Chairperson asked the parties present to identify themselves and to identify in what capacity they were attending the Tribunal. The Chairperson confirmed with the parties that they had received the relevant papers from the RTB in relation to the case and that they had received the RTB document entitled "Tribunal Procedures".

The Chairperson explained the procedure which would be followed. In particular, he outlined that the Tribunal was a formal procedure but that it would be held in as informal a manner as was possible, that the person who appealed first (for ease of reference in this report, referred to as the Appellant Tenant) would be invited to present their case first, that there would be an opportunity for cross-examination on behalf of the Respondent Landlord, that the Respondent Landlord's representatives would then be invited to present their case, and that there would then be an opportunity for cross-examination on behalf of the Appellant Tenant. The Chairperson explained that following this, both parties would be given an opportunity to make a final submission. He reminded the parties that the hearing was a de novo hearing.

The Chairperson stressed that all evidence would be taken on oath or affirmation and be recorded by the official stenographer present and he reminded the parties that knowingly

providing false or misleading statements or information to the Tribunal was an offence punishable by a fine of €4,000 or up to 6 months imprisonment or both.

The Chairperson also reminded the parties that as a result of the hearing that day, the Board would make a Determination Order which would be issued to the parties and could be appealed to the High Court on a point of law only.

Prior to commencing evidence, the Chairperson reminded the parties that it was open to them to reach an agreement. The Chairperson advised the parties of the benefits of reaching an agreement and advised them that any agreement reached would be capable of being confidential while retaining the enforceability of an order of the RTB. The Chairperson indicated that, if the parties wished to discuss matters among themselves, the Tribunal would rise and allow them to discuss matters. The parties availed of the opportunity but were unable to reach an agreement.

All parties intending to give evidence entered an affirmation prior to giving evidence.

5. Submissions of the Parties:

This case is one of three related cases. All three cases were heard by the same three Tribunal members. The Tribunal indicated during the hearings of those cases that the evidence given and submissions made in each case would, with the agreement of the parties, be considered by the Tribunal in respect of each of the three disputes. The parties and their representatives indicated that they were in agreement with this course of action. As such, the record of the evidence given in each of the three cases is largely similar and is reflected below. While each case was and remains an individual case, the evidence and submissions contain much in common, as is reflected below. Individual determination orders have been reached by the Tribunal in each case. What follows is not a transcript of the evidence in the hearings; it is a summary of the evidence given.

Appellant/Respondent Tenants' case:

Ms. Chimamkpam's evidence relating to her own case:

Ms. Chimamkpam first outlined the events of 25 June 2020 where there was banging at the front of the dwelling and a group of men were banging and trying to remove the door, at which stage they removed the door and a man who she now knows to be Mr. Keatley was there. She stated that he said he was not the landlord. She indicated that the Tenants rang the Gardaí at that stage and that Mr. Keatley resecured the front door and left. She continued to state that she advised her previous landlord, Mr. Ward, of the incident in question, and that he informed her that he was still the landlord.

She continued to outline the events of 12 August 2020, when she was asleep and was awoken by banging and smashing and jumped out of bed where she saw approximately fifteen men, all wearing masks, and that they came into her room. She stated that she was not properly dressed and that they were shouting at her to get up and get out and that she fell down. She indicated that they smashed a number of items including the toilet, her blender and her sound system and that she telephoned the Gardaí as she genuinely feared for her life as a group of unknown men were attacking her. She stated that they continued to destroy her personal belongings and pushed her.

She indicated that when the Gardaí arrived, the Gardaí indicated that the Tenants had no right to be in the dwelling and did not listen to them. She stated that she ended up outside

the dwelling and was wearing very little which was very disturbing and seriously against her culture and was pictured in that way in the Irish Times. She further outlined that she had to remain outside the dwelling for twelve hours on that day.

Ms. Chimamkpam continued to outline that Mr. Keatley's men took her mattresses, including her orthopaedic mattress. She further outlined that she and the previous landlord had converted the shop unit to a residential unit and she had helped furnish that part of the dwelling. She indicated that Mr. Keatley's men had smashed a number of items and carried them from the dwelling. She further outlined that golden jewellery she owned had gone missing and that it was in a box that was taken on the day. She indicated that it was an inheritance and that she cherished it.

She further outlined that housing activists who were passing by saw what happened and a large number of activists came and helped them. She indicated that after speaking to a solicitor on the following day, they were able to regain access to the dwelling. She outlined that on regaining access, they saw a number of items had been smashed and items removed. She outlined that they were unable to sleep in the dwelling and that they were gradually made the house habitable again over a number of weeks. She indicated that the actions of the Respondent Landlord had made the dwelling close to uninhabitable and much worse than it was before.

She submitted that she believed the adjudicator's determination was unfair and did not award her the full amount of damages claimed, including in respect of her jewellery, and in particular where she had been made homeless for a number of weeks.

She further outlined that Mr. Keatley had visited the dwelling on a number of occasions and was not interested in repairing matters, only in agreeing a settlement for the Appellant Tenants to leave the dwelling. She stated that she has no issue in paying rent but that the house has to be put in order and that she is entitled to certain minimum standards of accommodation, as is not the position at present. She submitted that the Respondent Landlord was not entitled to profit from its own wrongdoing. She further indicated that she refused to pay rent if she did not have a bed to sleep on, and if the facilities were damaged by the Respondent Landlord and she submitted that she completely disagreed with any deduction from the damages due to her in those circumstances.

She further indicated that even after June 2020 she had paid rent to the previous landlord and, in circumstances where Mr. Keatley had stated he was not the landlord on 25 June 2020, she did not believe she should have to pay double rent, as she would not have paid rent to Mr. Ward, her previous landlord, had she been properly informed of the position by Mr. Keatley.

She further submitted that she had been a good tenant previously to Mr. Ward and also submitted that she believed the Respondent Landlord should not be entitled to any rent from 2 June 2020 to 12 August 2020, in light of Mr. Keatley's denial prior to that date that he was the new landlord. She submitted that the Respondent Landlord had breached s. 58 of the Act, among other sections, and the 2020 emergency legislation relating to the pandemic, in attempting to terminate the tenancy without notice. She thus sought damages in the amount of €20,000, being the full jurisdiction of the RTB.

Cross-examination of Ms. Chimamkpam relating to her own case:

In cross-examination, Ms. Chimamkpam reiterated that she had a lease agreement with her previous landlord. She accepted that she had previously helped her previous landlord

manage other tenancies and did so because they had a good relationship. She indicated that she did that because they had a good relationship and she trusted him; she did that for free and continued to pay her rent. She stated that she managed the property in part but that Mr. Ward was still collecting the rent.

In respect of the incident of 25 June 2020, she denied there were eleven people in the former piano shop part of the dwelling and that there were only eight tenants. She indicated all tenants had separate agreements with Mr. Ward. She also outlined that she had numerous items there, including some of her own facilities, because Mr. Ward did not have the money to pay for certain items and she intended to live there for ten to twenty years. She outlined that the videos in question showed all her belongings, including other beds.

She reiterated why she had not paid rent since July 2020, as the Respondent Landlord's men had damaged the facilities in the dwelling. She indicated that at that stage, the only landlord she knew was Mr. Ward and that she was legally there. She denied that any of the tenants had produced a copy of any legal proceedings on 25 June 2020. She denied ever being aware of the appointment of a receiver and denied that Mr. Keatley had furnished the documents claimed. She indicated that they would not have continued paying Mr. Ward if she had known his ownership had been extinguished. She asserted that all the documentation submitted had only been submitted after 12 August 2020 and had not been received prior to that, and denied having received the letter of 17 June 2020 informing the occupants of the identity of the new owner of the dwelling.

She further indicated that she only became aware after the incident of 12 August 2020 of the history of the case and the proceedings Mr. Ward was involved in but reiterated that she had not been aware of matters prior to that, and denied having handed a copy of previous court proceedings to Mr. Keatley on 25 June 2020.

In respect of the incident of 12 August 2020, she reiterated that she had not been allowed back into the dwelling. She relied upon the videos submitted in this respect, and indicated that she was not able to collect all her belongings on that date. She submitted that her evidence had been consistent throughout the process and that she had not changed her claim between the adjudication hearing and the Tribunal hearing. She denied having exaggerated any aspect of her claim. She indicated that she was in fear for her life and in shock, and relied on all the videos submitted. She asserted that it was not possible for her to take a video of her being thrown violently onto the sofa. She denied having exaggerated this aspect of her claim.

When asked why the total value of her claim had increased, she submitted that she was unable to notice everything initially and that she was only able to update her list over time. When asked why the videos showed only mattresses being removed and not other items, she reiterated that the men in question had taken a number of her belongings. She indicated that not everything had been videoed.

In respect of the time she spent out of the dwelling, she stated that it was not correct to say she was only out of the dwelling for one day, as everything had been damaged, including showers and toilets, and that she was not able to sleep in the house for a period of time. She outlined that she spent a number of weeks sleeping in friends' houses and that while they had been able to re-enter the dwelling on 13 August 2020, they were not able to sleep there.

She further outlined that she had advised Mr. Keatley subsequently of the damage in question and indicated that she would pay rent if the dwelling was repaired. She also

asserted that Mr. Keatley was not denied access and that she showed to him the damage in question that required repair. She indicated that he had been to the dwelling on many occasions and had an opportunity to repair the damages. She also denied having been given an opportunity to remove her items on the following day, 13 August 2020. She reiterated that she was prepared to pay rent if the dwelling was repaired to minimum standards and reiterated that she had paid rent up to 12 August 2020, to Mr. Ward. She repeated her denial of ever having been made aware of any previous court proceedings between Mr. Fennell and Mr. Ward.

Mr. Jegede's evidence relating to Ms. Chimamkpam's case:

Mr. Jegede referred first to the incident of 25 June 2020, indicating that Mr. Keatley came to the dwelling, removed the front door and denied he was the owner. He indicated that Mr. Keatley returned on 12 August 2020 and numerous people came with him, wearing black face masks, and that there was violence, commotion and confusion, as seen in the videos. He indicated that he was pushed aggressively from the dwelling and that what occurred was a violent illegal eviction. He stated that there was more violence prior to the issues being videoed. He reiterated that no notice was given prior to the incident of 12 August 2020. He stated that Ms. Chimamkpam was scared and in fear as a result of what happened, and outlined that items were removed violently from Ms. Chimamkpam's room in the dwelling on the day in question. He also outlined that they received help from local activists and local people but that the house was not habitable for a number of weeks. He further indicated that Ms. Chimamkpam had to leave the house without wearing proper clothing and that she suffered a lot as a result.

He further indicated that Mr. Keatley had not returned the mattresses to the dwelling and had not put the doors back; he accepted that Mr. Keatley had been in contact and had visited the dwelling but that no one trusted him.

He also reiterated that a dispute between Mr. Ward and the receiver was news to them and that they had paid Mr. Ward rent for a number of years as he was a landlord. He submitted that Mr. Keatley breached s. 58 of the Act in attempting to terminate the tenancy on 12 August 2020 in the manner he did, and disregarded the restrictions related to Covid-19.

In respect of the demand for rent from 12 August 2020 onwards, he submitted that the Respondent Landlord had not repaired anything and that they should not be liable for rent.

He further reiterated that antiques, jewellery and personal gifts belonging to Ms. Chimamkpam had gone missing.

Cross-examination of Mr. Jegede relating to Ms. Chimamkpam's case:

In cross-examination, Mr. Jegede accepted that he had been in the dwelling on 25 June 2020 in the former commercial unit in the dwelling. He indicated that Mr. Keatley arrived but denied that there were 11 people in that part of the dwelling. He stated that Mr. Keatley was not calm on the day and indicated that he explained that he was there to revamp the dwelling and did not mention that Liqutex Limited were the new owners of the dwelling. Mr. Jegede denied showing Mr. Keatley a copy of any proceedings on 25 June 2020. He asserted that he had submitted clear evidence in this respect. He also denied ever having made any threats to Mr. Keatley on that date.

Evidence of Mr. Ferguson:

Mr. Ferguson indicated that he arrived at the dwelling on 12 August 2020 at approximately 18:20 and people were there helping the Appellant Tenants, where they were facing

homelessness in the middle of a pandemic. He stated that Ms. Chimamkpam was traumatised by what had happened and had not been given time to put on appropriate attire at that stage. He indicated that there were numerous people present, including housing activists, charity workers, Gardaí, and security workers in a car. He indicated that they were able to assist the Appellant Tenants and find them emergency accommodation that night.

He submitted that the following day, following consultation with their solicitor and the Gardaí, they regained access to the dwelling and the destruction inside was evident, with the main door being damaged and their homes destroyed, with utilities smashed to pieces. He further outlined that a number of items were photographed and videoed on that day and that the condition of the dwelling made it evident that the intention of the men on the day in question was to make the dwelling uninhabitable, with lightbulbs pulled from the ceiling, gas and electricity interfered with, toilets and sinks smashed, bannisters torn out and general damage to the property that could only have been intentionally damaged and done to make the dwelling unsafe. He indicated that the toilet and shower are still not working and that no effort had been made to repair those items by the Respondent Landlord.

Cross-examination of Mr. Ferguson:

Mr. Ferguson outlined that on 13 August 2020, the Appellant Tenants regained access to the dwelling but stated that they were not able to move back into the dwelling on that date, owing to the condition of the dwelling. He did accept that they were able to re-enter the dwelling on that date. He indicated that he was unaware of any threats being made to any security persons in the day. In respect of the utilities, he indicated that he was aware the electricity was disconnected but was unsure if there was a gas connection. He reiterated that a number of items such as the toilet, the shower and light fittings had evidently still not been repaired. He indicated that any issues in respect of access were questions for the Appellant Tenants rather than him. He indicated that he continued to help and contact the Appellant Tenants after the incident, in order to see how they were getting on.

Ms. Lallbeharry's evidence relating to her own case:

Ms. Lallbeharry indicated that she was also unlawfully evicted on 12 August 2020 and left on the street. She also reiterated that from that day on, nothing has been repaired in the house, nothing has been done, and the Respondent Landlord had not repaired matters. She indicated that the Respondent Landlord's men had stopped the water, that the shower is not working and that she still has to go to her friend's place to shower and to eat and just returns to the dwelling to sleep. She outlined that there are rats in the dwelling and that she did not believe she should have to pay rent in that situation. She outlined that she had paid rent of €400 per month to Mr. Ward until last August but had not paid rent to anyone else since that date.

Cross-examination of Ms. Lallbeharry relating to her own case:

Ms. Lallbeharry confirmed that she was not in the dwelling on the day in question but returned from work and was unable to get access. She indicated that she was only given one minute to gather personal belongings in the dwelling on that day. She outlined that she was unable to remember what items she had lost exactly and exactly what items had gone missing. She indicated that the dwelling had been turned upside down; however she also accepted that the value of her original claim, in respect of items lost and damaged, was €550, and that she had not amended the claim in that respect.

In respect of the day in question, she indicated that she was at work but that when she returned, she found everyone on the street and that she was only able to get into the dwelling for one minute, and that she was illegally evicted and humiliated as a result of the actions of the Respondent Landlord's men on that day.

In respect of access since that occasion, she stated that she had let Mr. Keatley into the dwelling but that he only sought access to pay people off and negotiate with them, not to repair matters. She further stated that Mr. Keatley had claimed he could not repair items because he did not have the money. She reiterated that he did not wish to repair anything and only wanted to negotiate with people in order to get them to leave the dwelling. She further reiterated that she had paid rent in June and July 2020 to Mr. Ward but had not paid rent since, as repairs were not carried out. She also reiterated that her loss was ongoing as she was not able to cook, shower and eat in the dwelling and had to visit friends as things were not comfortable for her in the dwelling, in particular in respect of cooking and her own personal hygiene.

In respect of Mr. Ward, she indicated that she was unaware of any issues with his ownership of the dwelling being in question but accepted that she had had no dealings with him since July 2020. She accepted that her tenancy was for a room in the dwelling and use of the common areas including the kitchen and bathroom.

When it was put to her that the maximum compensation the Tribunal could award was €20,000 total, she indicated that she had a separate tenancy and did have a written lease with Mr. Ward but that she had been unable to provide it, as her room had been turned upside down on 12 August 2020 and she had lost it. She also outlined that she was unaware of the appointment of a receiver in 2014 and was unaware of any of the High Court orders. She also outlined that she had not moved out, even though she did have to go to a friend's house to eat, shower and wash clothes. She accepted that her claim for specific loss was only for €550 but also indicated that she sought further general damages for the distress caused by the incident of 12 August 2020.

Mr. Jegede's evidence relating to Ms. Lallbeharry's case:

Mr. Jegede indicated that nothing in the dwelling had worked since 12 August 2020 and that Ms. Lallbeharry had to shower in her friend's house since that day. He reiterated that the Respondent Landlord had no intention to repair anything, and only wanted everyone to leave the dwelling. He submitted that it was unfair to impose an obligation to pay rent from 2 June 2020, where rent had been paid to Mr. Ward, or indeed to pay rent at all, where the dwelling was not suitable for the Appellant Tenants. He relied upon the videos and photos submitted in this respect. He also outlined that the damages awarded were low given the nature of the loss suffered by Ms. Lallbeharry. He further contended that the Respondent Landlord had stepped into the shoes of the landlord and relied upon the letter demanding rent. He indicated that the Respondent Landlord should be made to repair the dwelling and enter into new tenancy agreements with the Appellant Tenants. He submitted that each of the tenants had separate tenancy agreements and were entitled to individual damages of €20,000. He further outlined that Mr. Keatley had visited the dwelling on many occasions and that he had no intention of repairing any of the items in question, only in getting the Appellant Tenants to sign agreements to vacate the dwelling. He indicated that Mr. Keatley showed no remorse and had not apologised for his actions.

Cross-examination of Mr. Jegede relating to Ms. Lallbeharry's case:

Mr. Jegede accepted that Ms. Chimamkpam had her own unit in the dwelling and accepted that everyone else shared a toilet and kitchen. However, he also submitted that each other tenant had separate agreements with Mr. Ward. When asked about access to the dwelling, he reiterated that Mr. Keatley had had access more than seven times and that they were witnesses for two particular occasions when he visited the dwelling. He denied that Mr. Keatley was denied access and reiterated that Mr. Keatley was only interested in negotiation, not in maintaining the dwelling or repairing matters. He indicated that there was video showing Mr. Keatley accessing all parts of the dwelling. He again denied having given Mr. Keatley a copy of any proceedings on 25 June 2020. He also reiterated that each tenant had separate agreements and when asked why none had been submitted by any of the tenants, he indicated that items had gone missing as a result of the incident of 12 August 2020. He further outlined that before 12 August 2020, the dwelling was functional, including the kitchen, shower and toilet, and that a number of those items were damaged on that day, as was the banister on the stairs. He indicated that after that date, numerous items were damaged and not repaired and that the Respondent Landlord did not care about repairing items, only paying tenants off. He reiterated that access had been allowed to the dwelling and that Mr. Keatley did not have an intention to repair the dwelling.

Ms. Russell's evidence:

Ms. Russell indicated that she was also present on 12 August 2020 and that the actions in question were needlessly violent and that the actions of the men in question were unlawful and carried out to make the dwelling unliveable. She submitted that it was like something from the 1840's and was violent and callous. She submitted that the Appellant Tenants should be awarded the full jurisdiction of the Tribunal of €20,000 damages.

Cross-examination of Ms. Russell:

Ms. Russell agreed that the Respondent Landlord would not be able to rectify issues if not given access but indicated that she had been speaking to the Appellant Tenants for months and wanted to be an extra person to give evidence as to what she had witnessed on the day in question.

Mr. Jegede's evidence relating to his own case:

Mr. Jegede gave evidence that issues arose in respect of the dwelling prior to 25 June 2020. He said that his former Landlord, Mr. Ward, had informed Mr. Jegede and the other Tenants that there was a dispute in respect of the appointment of a receiver in respect of the property but he had assured them that he was contesting that, and he gave them to understand that their tenancies continued in being with Mr. Ward as their Landlord.

Mr. Jegede then described an incident on 25 June 2020. He said that on that occasion, Mr. Keatley and several others came to the house and started breaking through the front door into the former commercial unit at the front of the building. That doorway was boarded up and a television was behind it inside because it had been in use as a residential unit for a long time. When the doorway started to be broken in, all the Tenants came out to that room at the front of the building and confronted Mr. Keatley. He told them he was just checking out the property. They told him that he should do things in the proper way and that he was not entitled to enter the property by force. Mr. Jegede said at that stage Mr. Keatley denied that he was the owner or Landlord of the property. He told them he was just there to clear the property. Mr. Jegede claimed that Mr. Keatley had misled the Tenants and there was no basis for them to believe the rent should be paid to anyone but Gerry Ward.

Mr. Jegede said that a distress call was made by the Tenants to the Gardaí at that stage. He referred to videos which had been submitted to the RTB from that date. Mr. Keatley left after speaking to them and speaking to members of An Garda Síochána when they arrived. He handed in letters to the Tenants.

Mr. Jegede said that the Tenants contacted Mr. Ward who informed them that he was still their Landlord and he told them that they should continue paying the rent to him and that a "Cease and Desist" letter had been sent to the Landlord stating that there should be no further interference with the property or the Tenants.

Mr. Jegede said that the next incident took place on 12 August 2020. He said that Mr. Keatley came to the dwelling in the morning with several men who were dressed in black, with hoods and black masks. When the door was opened, he said that those men attacked everyone. He said that it was premeditated and that all the Tenants were forcefully removed. He only had minutes to gather his belongings and a lot of things were left behind. He said that he was eventually physically forced out of the building and that he was sprayed with a fire extinguisher. He said that he has a medical condition and has to manage himself medically. He said on the day he pleaded with the men to let him get back inside to get his medicines. He outlined that he is on medication for psoriasis, his blood pressure and cholesterol. He said that he was not allowed to retrieve his tablets and medicines which were all lost as a consequence of the Landlord's actions. He went to a pharmacy to try and get replacements but was told that he would need to go to his GP and get a prescription.

Mr. Jegede said that the men kept shouting at them to get out and when he entreated them to be allowed more time they said they didn't want to hear it. He described the men as being heartless and brutal and pushing everyone around.

Mr. Jegede said that in advance of this date nothing had been furnished to him in terms of a letter or Notice of Termination. On 12 August 2020 he challenged the men saying that he had a Part 4 tenancy and the men were not entitled to evict them in this way and that it was an illegal eviction. The men continued to force him and the other occupants out of the building. Mr. Jegede said that he made a distress call to the Gardaí; however, when the Gardaí arrived they refused to help the Tenants and instead a female Garda kept telling him that she had seen the documents which legitimised the eviction and that he could go to the garda station to see the Notice of Termination. He said that he was also told by one of the men that he should check Facebook and that they had been given notice on Facebook that they would have to leave. Mr. Jegede questioned how this could be a valid method of communication. He said that the Landlord does not even know his name so it would be impossible for him to be notified on Facebook.

In respect of a suggestion that he had been aware that Mr. Ward was no longer the owner of the property, and that it was he who had given Mr. Keatley or his men the documents from the High Court about the appointment of the receiver, he denied that he had given these documents to the men. He said that he had submitted all the evidence he had to the RTB, including the videos showing that he was pushed out of the property. He said that, regardless, it would not justify the actions of the men on that day. It did not validate their actions where he had a legitimate tenancy of the dwelling. Mr. Jegede stated that he has been living in this house for several years and he submitted a copy of an RTB registration for a tenancy in the building.

Mr. Jegede said that Mr. Keatley kept making racist comments and the men were saying they did not need to give them notice because of their ethnicity. He said that when an Irish

tenant returned to the dwelling on 12 August 2020, the men were nice to him and let him in. He said that their mistreatment was racially motivated.

Mr. Jegede said that when they got back into the dwelling on the following day, with the assistance of the housing activists and a local solicitor, everything was destroyed. He said that it was extremely traumatic and even though he is a strong individual, he and all the other Tenants were reduced to tears at the sight. The men had sprayed everything with fire extinguishers. His medicines were lost, his gadgets and a laptop were missing or destroyed. The internal doors had been removed and as well as the bannisters. The toilet had been smashed. The shower had been removed, his bed had been removed and so too had the cooker. Everything was damaged. He said this was at the time during the pandemic when there was an eviction ban and this was a clear breach of s. 5 of the Covid Act 2020. He said that he and his fellow Tenants were very scared and it has taken a long time for them to get their confidence back.

Mr. Jegede described his situation as having been rendered homeless for weeks. He said that although he was able to get back into the dwelling a day later, it was essentially uninhabitable as the toilet and shower were destroyed and he was unable to cook in the kitchen. He had to shower and cook in friends' houses and could not sleep in the dwelling as all the internal doors had been removed.

In respect of the ongoing damage in the dwelling, Mr. Jegede said that it was clear that Mr. Keatley only wanted to negotiate with the Tenants on the basis that they would vacate the property. He had made it quite clear that he did not intend to do any repairs, he just wanted to pay the Tenants off so they would leave. Although Mr. Keatley had come to the property several times since the adjudication hearing, and had been allowed in by the Tenants, he had not come to do any works.

Mr. Jegede said that he has nowhere else to go; he is not in a position to leave and he said he is entitled to his tenancy. He said he has no issue with paying rent to the Landlord as long as everything is repaired and put back in order. However, he submitted that it was unfair that he would be expected to pay rent while the dwelling is in such poor condition.

There was a dispute about a letter dated 17 June 2020 which the Solicitors for the Landlord had sent to the Tenants stating that all rents were payable to Liqutex Limited. Mr. Jegede relied on the said letter in support of his contention that Liqutex Limited had acknowledged it was a landlord, because it was a demand for rent. However, Mr. Jegede denied that he had received that letter on 25 June 2020 as was asserted by Mr. Keatley. Mr. Jegede said that the Landlord should have followed normal procedure and he took issue with Mr. Keatley's submission that it was not a demand for rent. Mr. Jegede submitted that the letter is crystal clear in its meaning, that the Landlord was acknowledging that there were tenants in the property and they were liable for the rent. He said that this letter was then used to evict the Tenants on 12 August 2020.

He opined that when someone is buying a property they should come in and inspect it beforehand and clarify the position with regard to Tenants. He was of the view that it was implausible that the Landlord purchased the property without carrying out any of the necessary checks in respect of whether it was occupied and by whom. Mr. Jegede said that Mr. Keatley had misled the Tenants when he said to them on 25 June 2020 that he was not the Landlord and in those circumstances they were entitled to continue believing that Mr. Ward was still their Landlord and it was for this reason that they had continued to pay rent to him.

In respect of rents due after 12 August 2020, he said that he did not see that the Landlord was entitled to rent when no repairs had been carried out. He said the property had been rendered uninhabitable and the Landlord should not benefit from that. He said that Mr. Keatley had been asked whether he would pay rent if he was left living in those conditions and he could not answer, he had just said he thought the Tenants were squatters.

Mr. Jegede said that he was shocked and disappointed that the Landlord had been assisted by An Garda Síochána in their unlawful eviction from the dwelling. He said that he does not want any trouble, he just wants to live peacefully and be treated fairly. He said he was ready to work with the Landlord and fulfil his tenancy obligations but the Landlord should be compelled to comply with its obligations.

In respect of his specific losses, he said that he had lost many personal belongings, including a drum set and drum microphone which were nowhere to be found, together with his medicines and supplements. He said that his mattress had been taken and he referred to footage which showed all the mattresses from the property being taken away in the back of a truck.

Cross-examination of Mr. Jegede relating to his own case:

In response to questions in cross examination on behalf of the Landlord, Mr. Jegede confirmed that he had a separate tenancy agreement but that his written tenancy agreement had been lost because all his papers had been lost or destroyed at the time of eviction. He said his tenancy was recorded with the RTB.

When asked whether his tenancy was now registered with the RTB he stated that it is the Landlord's obligation to do that. It was put to him that the Gardaí had told him that Mr. Ward was not the owner of the property and he should not be paying rent to him. He said they were just trying to deal with the Landlord and Mr. Keatley had said he was not the Landlord. He was asked if he paid rent to Mr. Ward after 25 June and he said that he had. He was asked why he had not taken note of what he had been told by the Garda but he said the Garda did not give him the right documents. He said the Gardaí had only been called because Mr. Keatley violently entered the property and he was not there to confirm who was the valid landlord.

He was asked whether he had received any letters from Dowling Property on behalf of the Landlord and he said he did not think so. He was referred to letters from Dowling Property as agents of the Landlord dated 23 and 25 June 2020. He said those letters simply said the health and safety of the occupants is their primary concern and that they wanted to check the electrics and inspect the property and he said the Landlord should have done that prior to purchase. He said that the letter from the solicitor dated 17 June 2020 was only received after the unlawful eviction on 12 August 2020. He said that someone had dropped that letter in the house after 12 August 2020 and in any event it was just addressed to "the occupiers" and not to him personally. He was asked if he had paid any rent to the Landlord and he said no because Mr. Keatley had denied that he was the Landlord.

In respect of the ongoing need for repairs it was put to Mr. Jegede that Mr. Keatley had tried to get access to carry out works but he disagreed. He agreed that Mr. Keatley had come to the property on several occasions but said that he had made it clear that he did not want to carry out any repairs, he just wanted to pay the Tenants off so they would leave. He said that he had shown Mr. Keatley around and given him access to every part of the house and he said that he had. It was put to him that this was not true and that the Landlord had sought access which had been refused and eventually had written to the RTB to see if

matters could be advanced that way. Mr. Jegede said that he had given Mr. Keatley access several times and had opened the door to him on a number of occasions, such as when other occupants were moving out.

It was put to him that he was fully aware that the person he had been paying rent to was not the owner and had been in receivership since 2014. He denied being aware of this. It was put to him that in his evidence at adjudication he had accepted that he knew this and that he had provided the High Court documents confirming this to the men who came on 12 August 2020. He replied that he had never furnished the Landlord with the document in question. It was put to him that it is clear from the videos from 12 August 2020 submitted by the Tenants that Ms. Chimamkpam was showing the court orders to the Gardaí as an explanation and as proof of their entitlement to be in the property. Mr. Jegede said he was not 100% sure what was visible in the videos but he said that this never happened.

It was put to him that he had threatened Mr. Keatley because he had been residing in the dwelling paying rent which was well below the market value to the wrong person and he had threatened Mr. Keatley because he was interfering with that situation. Mr. Jegede denied this and said it was Mr. Keatley who was in breach of the law and that he had suffered harm and stress.

Ms. Chimamkpam's evidence in Mr. Jegede's case:

Ms. Chimamkpam relied upon the photos and videos submitted and indicated that they showed that Mr. Keatley and persons with him shattered glass on 25 June 2020 and delivered letters to the dwelling. She indicated that Mr. Jegede did not provide Mr. Keatley with any letters on that date. She further denied any suggestion that there were ten people in the former commercial unit on that date and relied upon the photographs provided, showing only four people. She denied that they had received a letter prior to that date indicating that the ownership of the dwelling had changed. She reiterated that at that stage the only owner they knew was Mr. Ward and that the Tribunal should not be distracted from the breach of landlord's obligations in this case where Liqutex Limited was now the landlord and had purchased the dwelling without insisting on vacant possession as part of the purchase of the dwelling.

Ms. Chimamkpam stated that the Respondent Landlord wanted a cheap dwelling and was well aware it was occupied but thought he could make the house uninhabitable and evict the Appellant Tenants. She further denied ever having received a letter demanding payment of rent, until after 12 August 2020. She contended that the letter demanding rent did not exist as of the first RTB hearing in September 2020 and was only produced after that date. She further submitted that the letter was only sent to the RTB on 10 October 2020 and that this was evidence that the letter had not been sent on the date claimed, as it was not submitted to the RTB earlier. She reiterated that they would not have continued paying Mr. Ward if he was not the landlord. She indicated that after they sent a copy of Mr. Ward's "cease and desist" letter to Mr. Keatley and his legal representatives, they never came back to the Appellant Tenants to inform them that what Mr. Ward was contending was false, and Mr. Ward continued to convince the Appellant Tenants that he was still the owner of the dwelling. She submitted that it was only 12 August 2020 that the situation became obvious and that they stopped paying Mr. Ward.

In respect of the incident of 12 August 2020, she indicated that Mr. Jegede, like the other tenants, was left homeless for a number of weeks, owing to the dwelling not being suitable for their needs as a result of the incidents on that date.

In respect of access since the incident of 12 August 2020, she submitted that Mr. Keatley had had access since then and that they had to take pictures secretly to show that he was in the dwelling. She indicated that Mr. Jegede had showed Mr. Keatley the damage to the dwelling on many occasions but Mr. Keatley was only interested in paying the Appellant Tenants to leave the dwelling. She submitted that Mr. Keatley had never served a notice of termination because he believed the Appellant Tenants were squatters.

Cross-examination of Ms. Chimamkpam relating to Mr. Jegede's case:

In cross-examination, Ms. Chimamkpam reiterated that they had not received any letter demanding rent until after 12 August 2020 and that Mr. Keatley never presented a letter demanding rent until after 12 August 2020. She also indicated that she had previously raised issues in respect of Mr. Fenelon being treated better than other tenants on 12 August 2020. She also reiterated that she was dragged and pushed on 12 August 2020. She further stated that the reason she had not previously mentioned Mr. Keatley visiting the dwelling was because she believed those were private discussions, aimed at resolving matters, and she did not think she should mention those matters.

In respect of the incident on 25 June 2020, she reiterated that Mr. Keatley did not inform them on that day that he was the new owner and denied that Mr. Jegede had been shown documentation on that day to show that. She reiterated that they continued to pay rent to Mr. Ward as he provided the Appellant Tenants with the "cease and desist" letter and assured them the matter was in the courts. She indicated that Mr. Keatley had not come to the dwelling with proper documentation either. She indicated that they had no confirmation that Mr. Ward was no longer in charge and had not been provided with that paperwork, nor had they provided paperwork to anyone on 25 June 2020.

Ms. Lallbeharry's evidence relating to Mr. Jegede's case:

Ms. Lallbeharry relied upon the evidence given by Ms. Chimamkpam. She added that Mr. Keatley had broken the door on 25 June 2020 and when she asked him why he had done that, he replied that he did not care. She also reiterated that Mr. Keatley had had access to the dwelling on several times since 12 August 2020 and that numerous items remain damaged.

Respondent/Appellant Landlord's case:

Mr. Keatley's evidence:

Peter Keatley gave evidence in all three cases relating to the Appellant Tenants. He said that he was a Director of Liqutex Limited, which is the company which owns the property occupied by the Appellants. Mr. Keatley said that when Liqutex Limited purchased the property on 2 June 2020, he was not a director of the company, but he had subsequently become a director and was authorised to represent Liqutex Limited in the disputes.

The attendance on 25 June 2020:

Mr. Keatley said that at the time that Liqutex Limited purchased the property he only saw the exterior and some plans of the inside but he never viewed the interior prior to purchase. He knew that it was subject to a distressed loan and that there had been non-cooperation with a receiver. However, he had not purchased the property from the receiver. He had purchased it from the mortgagee. He visited the property on 25 June 2020. He said that he understood that it comprised a commercial unit on the ground floor with its own entrance (the old piano shop) and a residential area which included the upstairs and was accessed through the main front door. He said that when he visited the property first with his son, it

was their aim to access the commercial unit only, and clear it out for the purpose of renting it out as a commercial unit. He did not have keys to the building. He knocked on the front door but received no response, so they started to force open the door into the commercial unit. When they removed a panel and could see inside, he said he was surprised to see several faces looking out at him. He thought there were up to eleven people inside on that occasion.

Mr. Keatley said he had a conversation with the people inside, and he apologised. He said that he had got a fright and he believed they had also. They told him that they lived there, and then the Gardaí were called. He said that Mr. Jegede and Ms. Chimamkpam were in possession of paperwork which they gave to him to take a photograph of, which related to Gerry Ward. They told him that he could not be the owner because they were aware there were court proceedings pending. The Gardaí arrived, he had a conversation with the Gardaí and shortly afterwards he left.

Mr. Keatley said that letters were given to the occupants on that occasion and further letters were dropped in the letterbox, which identified Dowling Property as the managing agents of the property and a letter from the Solicitor for the owner, which identified Liqutex Limited as the owner and stated that Liqutex Limited is the body entitled to any rents in respect of the building. He said that this was not a demand for rent, as he did not believe the people in the building were tenants. He was of the view that they were squatting, present without any legitimate basis and that they were not entitled to remain there.

The attendance on 12 August 2020:

Mr. Keatley said that there was no satisfactory response from the occupants of the building after the letters were delivered and therefore he felt justified in returning to the property on 12 August 2020 with several men who had been hired by Liqutex Limited to clear the building. He said that it was not safe or suitable for human habitation and therefore he was of the view that it was imperative that the building be cleared as soon as possible. Mr. Keatley said that it was his intention to clear the occupants from the building, as he felt they were not entitled to be there. He said that all the people in the building were treated cordially and politely, and none of their possessions had been removed except the mattresses which he retained in storage. He said that he offered assistance with transport to anyone who wanted to move out.

Mr. Keatley said that at one point he was informed that Ms. Lallbeharry had arrived home amidst everything and she wanted to get access to her possessions inside. He said that he told her if she left it with him that he would let her back in. He denied that the occupants were only given a minute to gather their belongings. He said that Ms. Lallbeharry was given a period of time to access her part of the building and that she brought out a number of items. He denied that there was any pushing or pulling of anyone.

Mr. Keatley addressed the allegation that racial slurs and insults had been made against the Tenants when he and the other men attended at the dwelling on 12 August 2020. He denied that any such comments had been made. He said he was very surprised to hear this evidence being given in the Tribunal hearings, which had not been given at adjudication.

In relation to the suggestion that one of his men had told an Irish tenant that he could have access while the other Tenants were being excluded from the property, on the basis that they “look after their own” he denied that this was said. He said that anybody who approached him or his men directly to get in to get personal items, were permitted to do so.

He referred to the video footage which had been submitted by the Tenants and said that it showed Mr. Jegede, Ms. Chimamkpam, Henri and David all being given a chance to get back into the building to get their personal items, necessities, “bits and bobs”. He said that this type of complaint is more properly a matter for the WRC and said as far as he was aware no complaint has been made to the WRC. In relation to the allegation that Lee had been treated differently to the other Tenants he said that everybody in the property had been treated the same and given the same opportunity to access their belongings.

Condition and maintenance of the building:

In relation to the condition of the dwelling, Mr. Keatley described the whole building as being in very bad condition. He said the wiring is hazardous, with various electrical leads and flexi-cables attached to the main fuse board on an ad hoc basis, and tacked onto the stairs. He said that a supporting wall has been knocked through from the residential area into the commercial unit and the entrance way is only held up by timber and there are bricks exposed and crumbling. He said that the building is structurally unstable as a result. Mr. Keatley said that he brought a plumber to the property to fix a leak, but that because of the old pipework he would not touch the shower unit, and the plumber said he could not fix anything while there are wires all over the place.

Mr. Keatley said the property was unsafe, unclean, and overcrowded. He said the hallway and common areas are extremely cluttered with piles of flammable items. He said there is a “lean-to” at the rear of the building with holes which are allowing vermin to enter. Mr. Keatley said the property is dangerous and unsuitable for human habitation. He said that even before the damage that was done on 12 August 2020, he did not know how the Appellants were living there because it was in such poor condition.

He described the property as containing two units. He said that these two units are separate. Ms. Chimamkpam occupies one, which is a self-contained unit at the rear of the building on the ground floor, with its own bathroom and a kitchen area. The rest of the property he described as another unit, which was occupied by several people. He believed they shared a bathroom, kitchen and cooking facilities, and each had their own bedroom. He said that he understood most of the bedrooms had microwaves or fridges in them.

Since the events of 12 August 2020 Mr. Keatley said that he had attended the dwelling several times to meet various occupants and Ms. Russell as their representatives from the local housing activist group. He said that he had been in the front room with those people and they had had a pleasant meeting, and he thought they were making progress. He said that he was permitted in the front part of the building but has never been allowed into the rear of the building. He said it was Ms. Chimamkpam, Mr. Jegede and another occupant who denied him access to that area. He instructed his solicitor to contact the RTB with a view to getting access. He said that he needed access for an engineer and electrician, for safety and fire safety purposes. It was only after the RTB were asked to intervene that phone numbers for the various occupants were provided. He said that he has only ever been allowed access to the front hall and front room and other rooms when helping former occupants to remove their belongings.

Cross examination of Peter Keatley:

It was put to Mr. Keatley that as a businessman, he would have inspected the property prior to purchase but he said that Liqutex Limited purchased the property “on paper” and having done a “visual inspection”. He confirmed that Liqutex Limited purchased the property from Goldman Sachs and said that the information about the property was provided by the

vendor. However, he denied that he had been told there were tenants living in the property. He said that searches were done with the RTB and they could find no record of a current tenancy registered. Mr. Keatley said that he inspected the exterior of the property but had never been inside before 12 August 2020 and he said he has purchased many properties without carrying out an internal inspection.

He was asked about his attendance at the property on 25 June 2020 and asked whether he had presented himself as the new owner when he encountered the occupants. He said that he had no idea there was anyone living in the commercial unit, although he knew there was someone upstairs as he had seen curtain movement. He said that he had prepared paperwork to give to anyone inside and he had tried to make contact with anyone in the residential part with the red front door but there was no answer from anyone in there, so he left letters in that part telling any occupants to contact the solicitor or Dowling Property, and then went to the commercial unit. He was asked whether he had removed the door but he said no, their job was to get into the old piano shop, make it good, clean it out, to see what needed to be done to put it onto the market quickly as a rental unit. He agreed that a glass panel on the top of the door into the commercial unit was broken but said that the door frame was left intact, and it was all boarded up from the inside. It was put to him that he denied that he was the owner on that occasion and he accepted he probably said that he wasn't the owner, but he said that was in circumstances where he is not the only owner and there were eleven or more people looking out through the door from a dark room, and he was shocked to see them there.

It was put to him that although Liqutex Limited had purchased the property from 2 June 2020, he had continued to allow the Tenants to pay their rent to Mr. Ward from June to August 2020 because he had not told them that he was the new owner. He denied that this was the case. He said that on the day in question, even the Gardaí had explained to the occupants through the doorway that they were there as the new owners. He referred to the photographs which he had taken of the High Court documents referring to Gerry Ward and pointed to marks on the doorway which matched the commercial unit doorway which was visible in the Tenants' videos. He said that this confirmed that it was the Tenants who had produced this paperwork out through the doorway and handed it out sheet by sheet so that he could photograph it. He said that it was clear from those documents that the property was taken over in 2014, and that there was a High Court decision from 2016. He said the Tenants were clearly aware of the position because they provided the documents. It was put to him that it is not the duty of An Garda Síochána to tell the Tenants that he was the new owner and that they should pay the rent to him, but he responded that he had shown paperwork to the Tenants and the Gardaí himself showing that Liqutex Limited was the owner and that they were there as representatives of the company that had purchased the property.

Mr. Keatley was asked why he decided to come again on 12 August 2020 when he already knew there were tenants in the property, and had not given them any valid warning to leave. He said that they had been back to the property on several occasions between the two dates and had not tried to gain access, but did not know anyone who was there. They had left lots of documentation from the solicitor's office, auctioneer's office, and Mr. Keatley's own personal details but there was no response from any of the occupants. He said that he had asked the occupants to make themselves known as he could not tell who he was dealing with or the basis of their occupation of the building.

In relation to his attendance on 12 August 2020 he accepted that he came early in the morning with several others and they had removed all the doors and mattresses. He said the mattresses were all over the place. He was asked whether he had ever tried to return the mattresses or doors but he said that he had not, he said that he had been trying to access the property with an electrician and to inspect fire alarms and wiring, but that this was refused. He said that he was granted access to help the other five occupants to move out.

It was put to Mr. Keatley that he has attended several times for meetings with Ms. Lallbeharry and Ms. Chimamkpam and he said that he had. It was put to him that he had not fixed a leak. He said he had a leak fixed on request. It was put to him that he does not care about the safety and wellbeing of the Tenants in removing the bannisters from the stairs. He said that he had written letters on several occasions about wellbeing and safety, and has serious concerns about the doorway which has been broken through, the loose bricks and timber which are in the place of a supporting wall, the loose wires and extension cables running upstairs. He said that he was highly concerned about the condition of the building prior to entering on 12 August 2020, and the concerns included concerns about the safety of the bannister rail.

It was put to him that when he and his men entered on 12 August 2020 there were Covid restrictions in place and all evictions were prohibited. He said that as far as he knew the people in the property were squatters in the building, as they would not make themselves known to, or negotiate with, the owner, and were occupying the building, including the commercial section, without any lawful authority and in conditions which were inadequate for human habitation. He was asked whether his actions on 12 August 2020 were the best course of action, or due process. Mr. Keatley accepted that in hindsight, it might have been better to apply to court for some sort of relief, but that what happened had happened.

It was put to him that it was contradictory to describe the occupants as squatters and at the same time send a letter demanding rent. He replied that the letter in question was not a demand for rent, it simply says that Liqutex Limited as the owner is entitled to the rent. He said that he received no response to that letter, and that it was difficult to come to any other conclusion but that the occupants were squatting, where there was no correspondence or communication from them or any representative, solicitor or housing association on their behalf. He said they seemed to want to reside there without engaging with the new owners.

Closing submissions:

Appellant/Respondent Tenants' submissions:

The Appellant Tenants submitted that they were legal tenants and were legally residing in the dwelling. They disputed any suggestion of being squatters and submitted that the Respondent Landlord had not proved that they were ever made aware of the appointment of the receiver. They reiterated that Mr. Keatley had visited the dwelling on multiple occasions and never intended to repair any matters. They submitted that he clearly contradicted himself where he denied being the landlord on 25 June 2020 yet now claimed that the Respondent Landlord had purchased the dwelling before that.

They submitted that there was a clear illegal eviction and breach of s. 58 of the Act along with other Acts, including committing criminal damage, where no letter or notice of termination had been served, and it was a premeditated, vicious, illegal eviction. They relied upon the photos and videos submitted and contended that each of the Appellant Tenants had separate tenancy agreements. They further contended that the actions of the

Respondent Landlord breached Covid-19 restrictions and that that compounded the damage suffered.

They further contended that they did not believe it was fair for them to pay rent between 2 June and 12 August 2020, where they had paid that to Mr. Ward and were not aware he was no longer the owner and where the Respondent Landlord had not informed them of the change of ownership, nor to pay rent after 12 August 2020, because the Respondent Landlord was in breach of obligations after that date. They did indicate that they had no issue with paying rent if the Respondent Landlord repaired matters. They further reiterated that Mr. Keatley never had any intention of repairing matters and only wanted to resolve matters by having the Appellant Tenants leave the dwelling. They also submitted that they were homeless for a number of weeks as a result of the actions on 12 August 2020, even if they did regain access to the dwelling the following day.

Respondent/Appellants Landlord's submissions:

The solicitor for the Respondent Landlord submitted that the evidence of the Appellant Tenants had changed between the adjudication hearings and the Tribunal hearings, in particular in respect of a contention that they had not received certain documentation and in respect of the length of time for which they were homeless. She contended that the primary reason for the appeals in question was because the Appellant Tenants were unhappy with the condition of the dwelling; however, she submitted that the Respondent Landlord had been refused access to the dwelling on multiple occasions and was only able to gain access through the RTB.

In accordance with the directions of the Tribunal, further submissions were made by both sides after the hearings, including providing time for each side to reply to those submissions, and those submissions and replies have been considered by the Tribunal in this case. In short, the Respondent Landlord submitted that the arrangements in the present case were not tenancies and that, even if they were, the Respondent Landlord was not bound by the tenancies. The Appellant Tenants submitted that the arrangements were tenancies, that the Respondent Landlord was bound by the tenancies and that the Respondent Landlord was in significant breach of obligations arising from the incidents in question. The submissions made have been considered in full by the Tribunal.

6. Matters Agreed Between the Parties

The parties were unable to agree any matters which resolved any significant aspect of the dispute between them.

7. Findings and Reasons:

Having considered all of the documentation before it and having considered the evidence presented to it by the parties, the Tribunal's findings and reasons therefor are set out hereunder.

While the reasons herein are applicable in each case, and the report has been complied on the basis that the evidence in each case was considered in each other case as potentially relevant and admissible, each determination order is distinct, reflecting the separate applications that have been made and the fact that the redress awarded is individual to each Appellant Tenant, along with individual assessment of the loss suffered by each Appellant tenant. The Tribunal reports in each case are public documents,

published on the RTB website; as such, while the reasons in each are, in certain respects, the same and each report reflects the entirety of the reasoning of the Tribunal in the three cases, each determination order is distinct and applicable to the individual Appellant Tenant in each case. There is no expectation of confidentiality in respect of the reasoning or report as there was at adjudication; the parties were all advised that the reports of the Tribunal would be public documents. Accordingly, it is appropriate that the reports in question reflect the totality of the evidence and the totality of the reasoning of the Tribunal.

Finding 1: The Tribunal finds that there was a tenancy in place in the present case and in respect of each of the Appellant Tenants.

Reasons: In these cases, the Respondent Landlord has contended that there was no tenancy in place in respect of Mr. Jegede and Ms. Lallbeharry, albeit accepting that there may have been a tenancy in respect of Ms. Chimamkpam, in particular where it was accepted that she lived in a self-contained unit.

In respect of the existence or otherwise of tenancies, the Appellant Tenants gave clear evidence that they entered into tenancy agreements with Mr. Ward, a previous owner of the dwelling. There is no dispute that Mr. Ward was previously an owner of the dwelling. The absence of any written agreement does not change this; a tenancy may be oral, in particular where the tenancies herein were monthly periodic tenancies.

Ms. Chimamkpam's dwelling is separate and clearly self-contained. There can be no dispute as to the application of the Act to her tenancy in this respect.

In respect of Mr. Jegede and Ms. Lallbeharry, they have their own specific rooms and share common areas such as a kitchen and washing facilities. Their evidence is that they each entered into a tenancy agreement with Mr. Ward, on separate dates, and that they paid rent to Mr. Ward. This evidence has not been controverted and there is no basis on which to assume that this is incorrect. The Tribunal thus accepts that the agreements entered into with Mr. Ward were tenancy agreements and were understood by all parties to each agreement to have been tenancy agreements.

In respect of Mr. Jegede and Ms. Lallbeharry, the Respondent Landlord relies on the decision in Tully v. Private Residential Tenancies Board [2014] IEHC 554 and the reference therein to a previous Tribunal determination in Zhang v. Holohan TR168/2011 / DR92/2011. This was with particular reference to what was said to be the finding of the adjudicator that there were separate periodic tenancies in the dwelling.

The relevant part of the Tribunal determination in Tully v. Private Residential Tenancies Board [2014] IEHC 554 is as follows "The agreement between the Landlord and the Tenant is not for the rent of a self contained unit within the meaning of the Act. The Landlord although accessing the Dwelling through a separate entrance had full access to and use of the entire of the Dwelling excluding only the Tenant's bedroom. Section 3(2)(g) of the Act states that the Act does not apply to a dwelling within which the landlord also resides" (with particular emphasis on the words "within the meaning of the Act").

The rationale of that case is that a dwelling within which the landlord also resides is not a self-contained residential unit within the meaning of the Act. The case concerned the potential application of s. 3(2)(g) of the Act, as did the decision in Zhang v. Holohan TR168/2011 / DR92/2011. The conclusion in Tully v. Private Residential Tenancies Board [2014] IEHC 554 was reached on the basis that "the Landlord is in fact also resident in the Dwelling which brings the matter outside of the jurisdiction" of the RTB. That decision

appears to have been reached on the basis the tenant did not have full use of a self-contained residential unit exclusive of the landlord.

There has never been a suggestion that the Respondent Landlord in the present case resided in the dwelling or that Mr. Ward or any previous landlord resided in the dwelling. The decision in Zhang v. Holohan TR168/2011 / DR92/2011 is much more in keeping with the present decision. In that case, the parties agreed that the tenant in that case had exclusive use of one bedroom and shared use of common areas. The Tribunal, in reliance on Inspector of Taxes v Kiernan [1981] I.R. 117, found that a self-contained unit was one which enabled the party living there to have all the essentials for living, sleeping, washing, cooking, toiletry and relaxing. The Tribunal in Zhang v. Holohan found that they did have jurisdiction to determine the case, where there were two tenants, both with their own rooms but both with access to shared common areas, in each case exclusive of the landlord; the facts in that case do not appear to be in any legal sense distinguishable from the facts in this case.

When considered as a whole, there can be no doubt that the dwelling shared by Mr. Jegede and Ms. Lallbeharry is a self-contained residential unit. The fact that each is only liable for their own rent and has their own bedroom does not mean the entire unit is not a self-contained residential unit. It does not mean the agreement each entered into is not one for a tenancy on specific terms. While there may only be one part four tenancy in respect of the entire shared dwelling, the Act does not preclude each individual tenant from having a separate periodic tenancy agreement with their landlord. There is no requirement for a single unitary rent payable for the entire part four tenancy alone. The fact certain areas are shared does not mean the tenancy agreements in each case are not for a tenancy in a self-contained residential unit. The absence of a single tenancy agreement, or provision for joint and several liability for rent or other obligations rather than individual rents, does not mean the individual agreements are not for a tenancy. The fact Ms. Lallbeharry does not have access to Mr. Jegede’s room, and vice versa, does not mean the dwelling is not a self-contained residential unit and does not mean they do not have tenancies.

Mr. Jegede and Ms. Lallbeharry’s right to reside in the dwelling allowed them occupation of their own rooms individually and, as tenants collectively, allowed them use of the common areas, exclusive of persons who are not tenants. Their right to reside in the dwelling was exclusive of all other persons; it was, in particular, exclusive of Mr. Ward and the other previous landlords of the dwelling. He was not resident in the dwelling nor is there any evidence that any of the other previous owners were resident in the dwelling. The evidence given is that the agreements reached were for tenancies. The Tribunal accepts that Mr. Ward entered into agreements with Mr. Jegede and Ms. Lallbeharry for tenancies; the Tribunal is satisfied that the agreements in question were tenancy agreements and the Act applies to the tenancy agreements in this case. There is no basis advanced on which to conclude that they were licenses or were not tenancies; the authorities advanced do not support this proposition.

Finding 2: The Tribunal finds that the Respondent Landlord is bound by the tenancy in this case.

Reasons: The Respondent Landlord in this case has submitted a number of court orders in previous proceedings involving one of the former owners of the dwelling in this case, Mr. Ward. Only one of these orders appears in any way directly relevant to the dwelling in this case, specifically one relating to the appointment of a receiver, being the order of 28 July

2016, that the plaintiff therein was validly appointed as a receiver. That is the only particularly relevant order that has been submitted.

The Respondent Landlord in this case contends that they are not bound by the tenancies entered into. In respect of Ms. Chimamkpam's tenancy, this was entered into long before the appointment of the receiver. In respect of Mr. Jegede's, it was entered into in 2015, after the appointment of the receiver in 2014, but before the validity of that appointment was confirmed in 2016. In respect of Ms. Lallbeharry's tenancy, this was entered into in 2019, after the validity of the appointment of the receiver had been confirmed.

The Respondent Landlord has asserted that Mr. Ward had no authority to enter into a tenancy after the appointment of the receiver. However, while this may be the case in respect of whether a tenancy was binding on the mortgagee, the question in this case is whether the obligations of the mortgagors, Mr. Ward and his fellow previous owners, in respect of any agreements he did enter into have now passed to the Respondent Landlord.

The Respondent Landlord has referred to Fennell v. N17 Electrics Limited [2012] IEHC 228 in support of their contention that they are not bound by any agreements entered into by Mr. Ward. As a starting point, it should be noted that the mortgage agreement in this case was entered into prior to the passage of the Land and Conveyancing Law Reform Act 2009 and is, in large part, thus bound by the laws in place prior to the passage of that Act, under the Conveyancing Act 1881. In that case, the High Court (Dunne J.) stated in relevant part as follows:

"30. A number of useful observations can be made from the authorities referred to above. I think, first of all, that it is clear that a mortgagor and mortgagee can expressly agree to exclude the power conferred by s. 18 of the 1881 Act. If the power is excluded, it may be done in a way that permits the mortgagor to grant a lease subject to the prior consent of the mortgagee. If such prior written consent is not obtained by the mortgagor and the mortgagor proceeds to enter into a lease with a tenant, the lease will be binding on the mortgagor as lessor, but as against the mortgagee, the lease will not be binding. It is also clear that in certain circumstances, the lease may be binding on the mortgagee in circumstances such as those described in the authorities referred, where, for example, the mortgagee 'serves a notice on the tenant to pay the rent to him'.

…

46. I have already set out a number of authorities relied on by the applicant in support of the case made by them to the effect that whilst a lease entered into between the borrower and its tenant, in this case the company, may be binding as between them, it is not binding on the mortgagee."

In particular, the Tribunal emphasises the words "the lease will be binding on the mortgagor as lessor, but as against the mortgagee, the lease will not be binding" and "a lease entered into between the borrower and its tenant, in this case the company, may be binding as between them".

The Respondent Landlord's argument in this case is that they are in the same position as the mortgagee in this case, having, they said, purchased the property from the mortgagee. The Respondent Landlord states in their submissions that the property was purchased from the funder against whom the lease was unenforceable.

In this respect, the Respondent Landlord has submitted a deed of assignment which transferred to them the property held by Beltany Finance freed and discharged "from all

right or equity of redemption and from all costs claims and demands under the Mortgage and from all other burdens on title over which the Mortgage ranks in priority".

However, this is only the operative part of the agreement insofar as it was entered into between Beltany Finance and the Respondent Landlord. The previous owners of the dwelling, Ruairi O'Ceallaigh, Cormac O'Ceallaigh and Gerry Ward were also parties to the deed of assignment, acting through their attorney, the secretary of Beltany Finance. That attorney was irrevocably appointed as receiver on foot of the mortgage.

As such, it is not correct for the Respondent Landlord to state that they purchased the property solely from Beltany Finance. They purchased the property from both the mortgagee and also from the mortgagors acting through their attorney. All were parties to the agreement. The second operative paragraph of the deed of assignment states that the "Mortgagors acting by their lawful attorney … HEREBY ASSIGNS the Premises to the Purchaser for all the unexpired residue of the Leasehold Term subject to the Rent and to the lessee's covenants and conditions contained in the Lease for all the estate and interest of the Mortgagors in the reversion expectant upon the determination of the Mortgage Term."

The deed goes on to note that the purchaser "hereby declares that the unexpired residue of the Mortgage Term shall merge in the unexpired residue of the Leasehold Term and become extinguished".

These operative terms were not referred to in the Respondent Landlord's solicitor's submissions; it is not correct to say that the Respondent Landlord only purchased the interest of Beltany Finance or that, simply because an obligation was not binding on Beltany Finance, it is therefore not binding on the Respondent Landlord. To quote the first operative provision, and not the second or third operative provision, and go on to state that "Accordingly my client purchased the property free from any judgment mortgage or other tenancies or leases entered into by the former owner and same is specified clearly in the deed to my client" is to ignore the substantial nature of the second and third operative provisions and, in particular, to ignore their importance in this case. The Respondent Landlord purchased both the mortgagee's interest and the mortgagors' interest; the mortgagee and mortgagors were parties to the agreement. Indeed, the unexpired residue of the mortgage term was merged with the mortgagors' interest and the residue of the mortgage term was expressly extinguished.

The decision in Hayes v. Minister for the Environment, Community and Local Government [2020] IECA 54 does not advance the Respondent Landlord's position. That case concerned a claim that a mortgagee was a landlord of a particular tenant following the mortgagor entering into a lease with a tenant. The relevant paragraphs of that decision are as follows:

"96. In short, my view is therefore that the plea that Finn [the mortgagee] has become landlord to Ms Hayes is bound to fail as there is no contractual nexus between Ms Hayes and Finn. Ms Hayes' entitlement to remain in occupation as tenant under the 2004 Act is a right enforceable against her landlord and not against her landlord's charge holder. The 2004 Act did not create a contractual relationship between a tenant and a mortgagee of a landlord but rather reflects the mutual rights and obligations of tenant and landlord.

…

100. Section 3 of the Registration of Title Act 1964 defines 'possession' for the purpose of the Act as including 'the receipt of the rents and profits'.

101. The rights and obligations of a mortgagee in possession are long established in law. As Professor Wylie says in his Irish Land Law (5th ed., Bloomsbury Professional, 2013), at para. 14.76, a mortgagee can take 'possession' merely by taking receipt of rents and profits and other payments without taking physical possession. The definitions of 'possession' in s. 2 (iii) of the Conveyancing Act 1881 and in s. 3 of the Land and Conveyancing Law Reform Act 2009 recognise this.

…

103. The proposition that by having the benefit of a court order for possession, a mortgagee becomes landlord to an existing tenancy is not correct as a matter of law, or at least is not correct as an absolute statement. The order entitling the mortgagee to possession and to thereby receive the rents and profits arises by statute from the contract between mortgagee and mortgagor. It does not create privity between a mortgagee and a tenant of the mortgagor

…

107. In broad terms, an order for possession is not a foreclosure of the interest of the registered owner. There is no statutory provision the effect of which was to transfer the interest of the registered owner to Ulster Bank.

108. Accordingly, as Ulster Bank did not become the owner of the property or extinguish the rights of the mortgagor on account of taking possession, the argument that the interest of the landlord had become vested in Finn cannot succeed."

The Tribunal places particular emphasis on the final paragraph above and the position in para. 96, where it states that Ms. Hayes' entitlement to remain in occupation as tenant under the 2004 Act "is a right enforceable against her landlord".

The position in this case is entirely different from the position in that case. The Respondent Landlord has become the owner of the property; it is the mortgagee's interest that was extinguished and merged into the mortgagors' interest. The Respondent Landlord entered into a contract not only with Beltany but also with the former owners of the dwelling, acting through the secretary of Beltany as their attorney. Simply because the mortgagee may not have been bound by a tenancy entered into by the mortgagor does not mean that a successor in title of the mortgagor is not bound by that same tenancy agreement.

The fact that the Respondent Landlord entered into a contract with Beltany Finance and the former owners of the dwelling cannot extinguish the interest of the Appellant Tenants in this case. As a general principle, it does not appear to be correct to say that the Appellant Tenants had a tenancy that was binding on the former owner but that the former owner could then sell the property, albeit through his attorney, and that the tenancy in question would then somehow not become binding on the purchaser, when they hold the same interest as was held by the previous owner. No authority has been opened at any stage to support this proposition; the Respondent Landlord was clearly aware prior to the purchase that the dwelling was occupied and cannot and has not claimed to have been unaware of this. The letter of 17 June 2020 acknowledges that the Respondent Landlord was aware that the dwelling was occupied. Regardless of whether that letter can be characterised as a demand for rent, it undeniably acknowledges that the dwelling was occupied.

While the Appellant Tenants may, perhaps, have been under an obligation to pay rent to the receiver prior to the sale of the dwelling after his appointment and in particular after they were notified of this, and instead continued to pay it to Mr. Ward, this does not change

the position in this case nor change the fact they entered into agreements with Mr. Ward. The fact is, the Appellant Tenant had an enforceable tenancy agreement with a previous owner of the dwelling, Mr. Ward. The previous owners' interest was transferred to the Respondent Landlord. It is for all those reasons that the tenancy in this case is binding on the Respondent Landlord.

Further, in any event, if the Respondent Landlord feels there has been a breach of contractual obligation by Mr. Ward or other previous owners in respect of a breach of the terms of the mortgage entered into between them and IIB Bank Limited, it may be open to the Respondent Landlord to bring a claim against them. What the Respondent Landlord cannot do, however, is accept that Mr. Ward entered into agreements with the Appellant Tenants, accept that they are the successor in title of the previous owners having purchased the property from the secretary of Beltany Finance as attorney for the previous owner, yet deny that they are bound by the terms of those tenancy agreements. None of the authority provided supports this proposition.

As such, the Tribunal is satisfied that the Respondent Landlord is bound by the tenancy agreement in this case.

In particular, there can be no dispute in respect of the tenancy entered into by Ms. Chimamkpam, it having been entered into before the appointment of the receiver. Indeed, even in respect of Mr. Jegede and Ms. Lallbeharry, there can have been no way they would have been served with a notice of the appointment of the receiver prior to entering into their tenancy agreements. The tenancy agreements in question were clearly binding on Mr. Ward; they are binding on the Respondent Landlord as his successor in title.

Whether the occupants of the dwelling were or were not served with the relevant court documentation, and in particular whether they were or were not aware of the appointment of the receiver prior to the incident on 25 June 2020, is thus not particularly relevant to the matters the Tribunal is required to determine. Mr. Ward was undoubtedly bound by those agreements; the Respondent Landlord is the successor-in-title of Mr. Ward. The Respondent Landlord is bound by the tenancies in question.

While there was considerable evidence given as to whether particular paperwork, including a copy of the court order relating to the appointment of the receiver, was handed by the Appellant Tenants to Mr. Keatley on 25 June 2020, that is ultimately not a matter of great importance for the Tribunal, for the reasons outlined. While it is important in that it goes to the credibility of witnesses in respect of their general credibility, in respect of uncertain aspects of their claims for damages, it is not relevant to the issue of whether or not the Respondent Landlord is bound by the tenancies in these cases.

As such, the Tribunal is satisfied that the Respondent Landlord is the person entitled to receipt of rent under the tenancies in these cases. In each case, there was clear evidence given of having entered into a tenancy agreement; while no written leases were submitted, there is no requirement for a written lease for a monthly periodic tenancy to be valid. The Appellant Tenants are tenants of the dwelling and entitled to occupation of the dwelling.

Again, issues concerning the renting of a former commercial unit are beyond the remit of this Tribunal. There is no indication that any of the Appellant Tenants entered into any commercial agreement. If there are planning law issues concerning a change of use, that is beyond the remit of this Tribunal and does not change the fact that Mr. Ward was bound by the agreements he reached and that the Respondent Landlord is similarly bound.

Having said all that, the Appellant Tenants in each case are thus bound to pay the Respondent Landlord the rent due. While there may have been some confusion on their part, undoubtedly caused by poor communication on the part of both parties, the Respondent Landlord is entitled to rent from the date of the purchase of the dwelling, in this case 2 June 2020.

As of the date of the final Tribunal hearing of 25 June 2021, the total period of time that had passed since the purchase of the dwelling was thus 12 months and 24 days inclusive. The Appellant Tenants thus owe rent for that total period. The fact they may have paid money to Mr. Ward after that date is not relevant; that is an issue between the Appellant Tenants and Mr. Ward and has no bearing on their obligations to the Respondent Landlord. The Respondent Landlord did not cause them to pay rent to Mr. Ward and the Appellant Tenants have not shown any basis on which payments to Mr. Ward should be deducted from the payments they owe to the Respondent Landlord. Similarly, the fact that the Respondent Landlord is also in breach of his obligations does not negate the obligation on the Appellant Tenants to pay rent. They remain under an obligation to pay rent to the Respondent Landlord.

For the avoidance of doubt, the Tribunal does accept that the Respondent Landlord did advise the Appellant Tenants by letter of 17 June 2020 of the identity of the new owner of the dwelling; however, as noted, this is ultimately not of importance in this case, where any dispute as to the rent paid to Mr. Ward to cover any period after 2 June 2020 is not relevant to the dispute before the Tribunal in this case. While it certainly affects the general credibility of the witnesses in respect of their own evidence as to general damages and loss suffered, it is not relevant as to the existence of the tenancies or whether the Respondent Landlord is bound by those tenancies.

In Ms. Chimamkpam's case, her monthly rent is €400 per month. There is no evidence of a valid rent review reducing this amount. She thus owes a total amount of rent of €400 x 12 plus 24 days at (€400 x 12 / 365 = €13.15). This is a figure of €4,800 + 24 x €13.15 = €4,800 + €315.60 = €5,115.60.

In Mr. Jegedes's case, his monthly rent is €350 per month. There is no evidence of a valid rent review reducing this amount. He thus owes a total amount of rent of €350 x 12 plus 24 days at (€350 x 12 / 365 = €11.51). This is a figure of €4,200 + 24 x €11.51 = €4,200 + €276.24 = €4,476.24.

In Ms. Lallbeharry's case, her monthly rent is €400 per month. There is no evidence of a valid rent review reducing this amount. She thus owes a total amount of rent of €400 x 12 plus 24 days at (€400 x 12 / 365 = €13.15). This is a figure of €4,800 + 24 x €13.15 = €4,800 + €315.60 = €5,115.60.

However, this figure is only that due in respect of the rent owed; for the reasons outlined below, the Appellant Tenants are entitled to significant damages and the figures of rent owed shall be offset against the sum of damages payable by the Respondent Landlord to the Appellant Tenants.

For the avoidance of any doubt, however, the Tribunal puts no weight whatsoever on the so-called "cease and desist" letter referred to by the Appellant Tenants. It is of no legal effect and has no bearing on the present dispute.

Finding 3: The Tribunal finds that the actions of the Respondent Landlord were and are in breach of obligations and that the Appellant Tenants have suffered considerable loss as a

result, including on an ongoing basis, and are entitled to damages as outlined below as a result.

Reasons: Two preliminary matters must be addressed. First, in respect of the dispute in question, the Tribunal is satisfied that it was open to the Appellant Tenants to bring separate applications for dispute resolution. Section 76(1) of the Act provides that "Either or both of the parties to an existing or terminated tenancy of a dwelling may, individually or jointly, as appropriate, refer to the Board for resolution any matter relating to the tenancy in respect of which there is a dispute between them." Section 18 of the Interpretation Act 2005 also provides that "A word importing the singular shall be read as also importing the plural, and a word importing the plural shall be read as also importing the singular". There can thus be no dispute as to the right of any individual party to a tenancy to bring a case to the Tribunal.

Second, in respect of the amount of redress that any party may be awarded, s. 115(3) of the Act provides that "The amount … that an adjudicator or the Tribunal may direct to be paid to a party in respect of the matter (or, as appropriate, all of the matters) the subject of a dispute referred to the Board for resolution shall not exceed … if the amount or amounts consist solely of damages — €20,000". The key words of this section are "to a party". Where there are multiple parties to a tenancy, each could be awarded up to €20,000 in respect of an individual dispute, where each party is entitled to bring a dispute. There is no onus on parties to bring a single, joint dispute application and parties may bring applications individually or jointly.

Under s. 12(1)(a) of the Act, a landlord has an obligation to allow a tenant peaceful and exclusive occupation of the dwelling. Under s. 58 of the Act, a landlord is restricted in the way a tenancy is terminated, to the means provided for under Part Five of the Act.

There is no real dispute over what happened on 12 August 2020 as is evident from the videos. A large number of men, wearing masks, broke into the dwelling in this case and proceeded to damage a large number of items in the dwelling, including removing doors from hinges and breaking sanitary items, along with removing bannisters, beds and mattresses. The intention of these acts can only have been to render the dwelling uninhabitable and had the clearly foreseeable effect of inflicting considerable distress on the Appellant Tenants in this case; this is evident from the videos submitted.

Regardless of whether the Appellant Tenants were aware that there was a dispute as to ownership of the dwelling, the actions of the men acting on behalf of the Respondent Landlord can only have constituted the most egregious breach of obligations under the Act. The men in question arrived, unannounced, and proceeded to engage in actions that can only be seen as intimidating and deliberately so. They caused significant damage to the dwelling and to a number of items in the dwelling. No notice of termination was served. No warning was given. The actions in question were egregious and carried out in wanton disregard of any rights the Appellant Tenants may have had. While the Tribunal does not and cannot award exemplary or punitive damages, the manner of the attempted unlawful eviction is relevant to the level of loss suffered and relevant to the amount of damages in that respect.

Further, regardless of the precise detail of what happened, and whether the individual Appellant Tenants were forcefully removed or pushed or shoved, what happened was nonetheless an extreme invasion of their privacy, unprovoked, and without warning. While there may have been slight discrepancies between the detail given by the Appellant Tenants at different stages of the process, the videos and objective evidence clearly show

that the actions of the Respondent Landlord's employees on the day constituted a serious and significant breach of obligations under the Act.

The videos submitted clearly show the actions of the Respondent Landlord's workers and agents on the day in question. There is no dispute as to the fact that the actions on the day in question were undertaken at the direction of the Respondent Landlord company and that the Respondent Landlord is liable for those actions.

For the avoidance of any doubt, however, the actions of the Gardaí are beyond the remit of the Tribunal; the Tribunal can only make findings and award redress in respect of actions carried out by or on behalf of the parties to the tenancy. It is not appropriate to make any findings in respect of the actions of the Gardaí; there are separate processes available in that respect and it would not be appropriate for the Tribunal to comment on the appropriateness, or indeed otherwise, of the actions of the Gardaí on the day in question.

The losses in question are also ongoing. The dwelling in question remains in poor condition, caused by an ongoing breach of obligations on the part of the Respondent Landlord in failing to maintain and repair the dwelling. While there was a considerable dispute between the parties as to whether the Respondent Landlord has had access to the dwelling for the purposes of carrying out works, the Tribunal is satisfied that it is not required to resolve this particular aspect of the dispute. The Tribunal is not satisfied that the Respondent Landlord actually had the intention of carrying out the works necessary to comply with his obligations; by his own admission, he treated the Appellant Tenants as trespassers, not as tenants to whom he owed obligations. He has also clearly had some access to the dwelling but has not carried out the works required.

As such, given the loss of amenity being suffered on an ongoing basis, in addition to loss suffered on the day in question, the Tribunal is satisfied that the Appellant Tenants in each case are entitled to damages equalling half of the rent due, given the loss of amenity that they have suffered on an ongoing basis. The dwelling in question requires significant works, as a result of the actions carried out on behalf of the Respondent Landlord and the Appellant Tenants have each suffered loss as a result. Accordingly, they are entitled to damages equalling half of the amount of the outstanding rent, in respect of the failure of the Respondent Landlord to maintain the dwelling and to make good the damage caused on 12 August 2020, and the ongoing breach of obligations under s. 12(1)(b) of the Act that this represents.

In respect of the general loss and inconvenience suffered, each of the Appellant Tenants suffered considerable loss and inconvenience as a result of the actions of the Respondent Landlord on the day in question. They were made homeless, albeit only for one night. While they may not have had full use of the dwelling thereafter, the loss in respect of the ongoing inconvenience has been assessed above. The Appellant Tenants are, however, entitled to general damages for the breach of obligations on 12 August 2020, given the distress and inconvenience caused on that day, in particular where the actions occurred in the middle of a global pandemic, albeit at a time when case numbers in Ireland were relatively low.

The actions in question were humiliating for each of the Appellant Tenants and caused them considerable personal difficulty on the day in question, along with considerable upset and distress. Having considered the evidence in this respect, and in particular the video evidence submitted, the Tribunal is satisfied that Ms. Chimamkpam is entitled to damages in the amount of €7,500 and Ms. Lallbeharry is entitled to the figure of €10,000 by way of damages for interference with their peaceful occupation of the dwelling in light of the

incidents on 12 August 2020, and the breach of obligations under s. 12(1)(a) of the Act that this represented. They suffered considerable personal inconvenience on the day in question, in particular given their own personal circumstances.

Ms. Chimamkpam was directly subjected to an egregious illegal eviction in a state of personal distress and Ms. Lallbeharry was subjected to the shock of returning to her home to find that she had been summarily evicted without notice and was only given a minimal opportunity to enter the dwelling; these were egregious breaches of duty by the Respondent Landlord and the damages awarded reflect the considerable personal distress, loss, inconvenience and damage suffered on the day in question. Ms. Lallbeharry may not have directly witnessed the incident; in many ways, this make the position more serious, not less, in that she was not afforded any opportunity to collect personal belongings and was summarily evicted without any notice whatsoever, only to be surprised on returning to the dwelling to find that she had been homeless. While Ms. Lallbeharry accepted that her personal quantifiable loss was approximately €550, this does not mean she is not also entitled to significant general damages for the breach of obligations on the day in question, given the loss and inconvenience suffered by all the Appellant Tenants on that day.

Mr. Jegede also suffered considerable personal inconvenience on the day in question but was not subjected to the same level of distress and personal inconvenience. As such, the Tribunal is satisfied that he is entitled to damages under s. 12(1)(a) of the Act in the amount of €6,000 for the breach of obligations on 12 August 2020.

In respect of the specific loss claimed by Ms. Chimamkpam, she has claimed loss of a number of items and damage to others, totalling €23,963. As noted, the jurisdiction of the Tribunal in respect of damages is limited to €20,000; the fact the claim exceeds this does not mean the Tribunal has jurisdiction, only that no figure in excess of that amount can be awarded. It is clear from the videos and documentation submitted that she has suffered considerable loss, including a number of damaged belongings. However, the Tribunal does not accept that valuable personal items belonging to her were deliberately removed from the dwelling or taken by the Respondent Landlord. As noted in the adjudicator's report, 35 particular items were claimed at that stage; other matters, including costs for repairs, have been claimed since and Ms. Chimamkpam has claimed for 38 specific items. A number of items can be seen in the videos in question and it is also clear that the actions of the Respondent Landlord's employees were violent and carried out with a degree of vandalism. Their behaviour was thuggish and intimidatory; the Tribunal accepts that a number of personal items were damaged on the day in question.

A number of personal items were claimed, such as clothing, personal electrical items such as fans, laptops and home cinema equipment. However, a number of items were also claimed in respect of which there is no specific evidence of loss and no evidence that personal valuable items were actually removed from the dwelling. The Tribunal does accept that it is difficult to particularise specific loss, in particular where some items are damaged, including personal electronic and electric equipment of various ages, and where a number of personal items were damaged on the day in question. Items such as clothing (valued at €1,800), shoes (valued at €250), food (valued at €350), blender (valued at €95), lights (valued at €105), fans (valued at €150), home cinema (valued at €450), laptop (valued at €600), pots, pans and cutlery (valued at €500), pictures (valued at €200), a rug (valued at €600) and a wall clock (valued at €50) are the sort of items which it is expected could have been damaged during the incident in question, along with her personal orthopaedic mattress (one of two, with a value of €400 each), along with the cost of bedding (a total of

€350 for four sets was claimed). This is a total of €5,900; these are the sort of items that the Tribunal accepts may have been damaged or taken during the incident in question. Similarly, items such as jewellery may have gone missing but the Tribunal does not accept that the were deliberately taken. In the absence of independent evidence as to the value of the jewellery that went missing, the Tribunal cannot place any value in excess of €500 in respect of that jewellery. That gives a total value of €6,400.

However, the Tribunal cannot award the full cost of each of those items. Some allowance must be allowed for wear and tear and the age of a number of the items in question. There is no evidence as to the replacement cost. The Tribunal similarly is not satisfied that Ms. Chimamkpam has shown that personal valuable items were taken by the Respondent Landlord's representatives, as opposed to items being damaged. The Tribunal does not accept that Ms. Chimamkpam has shown that personal jewellery was deliberately taken; she has provided no evidence of the existence of these items.

In this respect, the Tribunal is not satisfied of the credibility of Ms. Chimamkpam; the Tribunal does not accept that the Appellant Tenants did not receive documentation sent by the Respondent Landlord to the dwelling in question or that they were unaware of certain documentation. Her denials of this, in the face of obvious evidence, undermines her credibility in respect of uncertain aspects of her claim, including claims that certain personal items were removed. No damages can be awarded for aspects of the claim that are not supported by objective evidence and where the claim is for items that were removed from the dwelling. While jewellery and some other items may have gone missing, or been accidentally removed, the Tribunal does not accept that such items were deliberately removed. The Tribunal can and does allow damages for items which are of the sort normally owned by tenants; the Tribunal does not allow damages for items which are of the sort normally owned by landlords and similarly does not allow damages for personal valuables where there is no objective evidence as to the existence or removal of such items.

Accordingly, and given the absence of the evidence as to the age of a number of the items, the Tribunal is satisfied that it should allow the sum of €4,500 in respect of the cost of personal items damaged and taken on the day in question, also having regard to the obvious sentimental value of jewellery.

Ms. Chimamkpam has also claimed the cost €1,203 in respect of repairs carried out to the dwelling; the Tribunal accepts this cost in full and accepts that it was necessitated by the failure of the Respondent Landlord to carry out the works required to the dwelling. This sum of damages should also be allowed. This gives a total sum of special damages of €5,703 owed to Ms. Chimamkpam.

In respect of the specific loss claimed by Mr. Jegede, he has claimed loss of a number of items and damage to others. It is clear from the videos and documentation submitted that he has suffered considerable loss, including a number of damaged belongings. However, the Tribunal does not accept that valuable personal items belonging to him were removed from the dwelling or taken by the Respondent Landlord. A number of items can be seen in the videos in question and it is also clear that the actions of the Respondent Landlord's employees were violent and carried out with a degree of vandalism. Their behaviour was thuggish and intimidatory; the Tribunal accepts that a number of personal items were damaged on the day in question.

A number of personal items were claimed, such as personal electrical items such as a tablet and TV. The Tribunal does accept that it is difficult to particularise specific loss, in particular

where some items are damaged, including personal electronic and electric equipment of various ages, and where a number of personal items were damaged or ended up missing following the incident on the day in question. Items such as a tablet (valued at €520), an audio system (valued at €620), cholesterol supplements (valued at €350), bedding (valued at €290 total), a television (valued at €750), clothing (valued at €1,400), a phone and tablet charger (valued at €85), a snare drum (valued at €480), supplements (valued at €280), a watch (valued at €480), and a bicycle lock (valued at €75) are the sort of items which it is expected could have been damaged during the incident in question. This is a total of €5,330; these are the sort of items that the Tribunal accepts may have been damaged or taken during the incident in question.

However, the Tribunal cannot award the full cost of each of those items. Some allowance must be allowed for wear and tear and the age of the items in question. There is no evidence as to the replacement cost. The Tribunal similarly is not satisfied that Mr. Jegede has shown that personal valuable items were deliberately taken by the Respondent Landlord's representatives, as opposed to items being damaged.

Similarly, in respect of uncertain aspects, the Tribunal is not satisfied of the credibility of Mr. Jegede; the Tribunal does not accept that Mr. Jegede did not receive documentation sent by the Respondent Landlord to the dwelling in question. His vociferous denials of this, in the face of obvious evidence, undermines his credibility in respect of uncertain aspects of his claim, including claims that certain personal items were removed. No damages can be awarded for aspects of the claim that are not supported by objective evidence and where the claim is for items that were removed from the dwelling.

Accordingly, and given the absence of the evidence as to the age of a number of the items, the Tribunal is satisfied that it should allow the sum of €3,500 in respect of the cost of personal items damaged and taken on the day in question.

Mr. Jegede has also claimed the cost of €570 in respect of repairs carried out to the dwelling; the Tribunal accepts this cost in full and accepts that it was necessitated by the failure of the Respondent Landlord to carry out the works required to the dwelling. This sum of damages should also be allowed. This gives a total sum of special damages of €4,070 owed to Mr. Jegede.

In respect of the specific loss claimed by Ms. Lallbeharry, she has claimed loss of a number of items and damage to others. It is clear from the videos and documentation submitted that she has suffered considerable loss, including a number of damaged belongings. It is clear that the actions of the Respondent Landlord's employees were violent and carried out with a degree of vandalism. Their behaviour was thuggish and intimidatory; the Tribunal accepts that a number of items were damaged on the day in question and that other items have gone missing.

A number of personal items were claimed. The Tribunal does accept that it is difficult to particularise specific loss. Items such as jewellery (valued at €500) and a laptop cable (valued at €50) are the sort of items which it is expected could have been damaged or gone missing during the incident in question. This is a total of €550; these are the sort of items that the Tribunal accepts may have been damaged or taken during the incident in question.

While some allowance must be allowed for wear and tear and the age of the items in question, allowance must also be made for the sentimental value of items such as jewellery. These are items which can go missing during an incident such as the one in this case.

Accordingly, the Tribunal is satisfied that it should allow the sum of €550 in respect of the cost of personal items damaged and taken on the day in question.

Ms. Lallbeharry has also claimed the cost €220 in respect of repairs carried out to the dwelling; the Tribunal accepts this cost in full and accepts that it was necessitated by the failure of the Respondent Landlord to carry out the works required to the dwelling. This sum of damages should also be allowed. This gives a total sum of special damages of €770 owed to Ms. Lallbeharry.

Accordingly, the net figures owed are as follows:

In Ms. Chimamkpam's case, her rent arrears are €5,115.60. Against this, she is entitled to damages of €2,557.80 for the ongoing breach of obligations under s. 12(1)(b) of the Act. She is also entitled to general damages of €7,500 in respect of the incident on 12 August 2020. She is further entitled to specific damages of €5,703 in respect of the items damaged and taken on that date and works done since that date. That gives a net position of €10,645.20 due to Ms. Chimamkpam.

In Mr. Jegede's case, his rent arrears are €4,476.24. Against this, he is entitled to damages of €2,238.12 for the ongoing breach of obligations under s. 12(1)(b) of the Act. He is also entitled to general damages of €6,000 in respect of the incident on 12 August 2020. He is further entitled to specific damages of €4,070 in respect of the items damaged and taken on that date. That gives a net position of €7,831.88 due to Mr. Jegede.

In Ms. Lallbeharry's case, her rent arrears are €5,115.60. Against this, she is entitled to damages of €2,557.80 for the ongoing breach of obligations under s. 12(1)(b) of the Act. She is also entitled to general damages of €10,000 in respect of the incident on 12 August 2020. She is further entitled to specific damages of €770 in respect of the items damaged and taken on that date and works done since that date. That gives a net position of €8,212.20 due to Ms. Lallbeharry.

In respect of the payment of the net sums due and owing, the Tribunal is satisfied that these should be paid within 21 days of the date of issue of the determination order of the Board. The Appellant Tenants suffered and continue to suffer significant loss as a result of the actions of the Respondent Landlord, on an ongoing basis, and are entitled to a prompt remedy as a result.

The Respondent Landlord is also under an obligation to carry out such repairs as are necessary to bring the dwelling up to the relevant standards and to ensure it complies with his obligations under s. 12(1)(b) of the Act. The Tribunal has awarded damages to cover losses to the date of the last Tribunal hearing; however, for so long as those matters are not remedied, the Appellant Tenants will continue to suffer loss. The tenancies in this case continue and they have not been terminated in accordance with the Act; the Respondent Landlord continues to be bound by his obligations under the Act in this respect.

Notwithstanding that, the Appellant Tenants are also under an obligation to pay rent in respect of the tenancies in question; a failure on the part of the Respondent Landlord to comply with some of his obligations does not entirely remove the obligation to pay rent from the Appellant Tenants. While, in certain circumstances, they may be entitled to carry out repairs to the dwelling and deduct certain expenditure from the rent, they are not entitled to pay no rent and demand that the dwelling be fully repaired before they pay any rent. They are also under an obligation to allow the Respondent Landlord and anyone working

on his behalf reasonable access to the dwelling for the purposes of inspection and repair, notwithstanding the previous interactions between them.

However, for all the reasons outlined, the Tribunal is satisfied that each of the Appellant Tenants is entitled to the sum of damages outlined; appropriate individual determination orders should thus be made in respect of each individual Appellant Tenant.

8. Determination:

In the matter of Theresa Chimamkpam, Appellant Tenant, and Liqutex Limited, Respondent Landlord, the Tribunal, in accordance with s. 108(1) of the Residential Tenancies Act 2004, determines that:

The Respondent Landlord shall pay the total sum of €10,645.20 to the Appellant Tenant, being damages of €15,760.80 for breach of landlord obligations under s. 12(1)(a) and (b) of the Act, having deducted rent arrears of €5,115.60, within 21 days of the date of issue of this Determination Order of the Board.

The Tribunal hereby notifies the Residential Tenancies Board of this Determination made on 11/08/2021.

Signed: 

Eoin Byrne Chairperson
For and on behalf of the Tribunal