FILED, Clerk of the Appellate Division, September 11, 2025, **A-002643-24**

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO.: A-002643-24-T1

BENNY OMIUNU,

Plaintiff-Respondent

vs.

PETER LU,

Defendant-Appellant

CIVIL ATION

On appeal from

SUPERIOR COURT, LAW DIVISION
SUSSEX COUNTY

HONORABLE DAVID J. WEAVER, J.S.C.
Sat Below

BRIEF AND APPENDIX FOR APPELLANT PETER LU

PETER LU
APPELLANT
37 BRADFORD TERRACE
BOONTON, NEW JERSEY 07005
(201) 772- 4753
Plu100@gmail.com

TABLE OF CONTENTS

Page

PRELIMINARY STATEMENT 1

PROCEDURAL HISTORY 3

STATEMENT OF FACTS 5

AUGUMENT

I. THE TRIAL COURT ERRED IN REJECTING A VALID, LEASE-BASED DEDUCTION FOR RENTAL LOSS CAUSED BY RESPONDENT'S BREACHES. THE COURT DISREGARDED THE LEASE, EXHIBITS, WITNESS LETTER, AND COUNTERCLAIM ACCEPTED RESPONDENT'S UNSUPPORTED ASSERTIONS, AND MISCALCULATED THAT THE 45 DAYS DELAYS DID NOT AFFECT TIMELY RE-RENTAL. IT THEN AWARDED DAMAGES TO THE BREACHING PARTY WHILE DOUBLE-PENALIZING THE LANDLORD—A TOTAL OF $6,800. 11

(Raised Below: Final Judgment: Pa1; Lease: Pa31–Pa37; Realtor witness letter: Pa30; Itemized deductions: Pa38; Texts re 45-day blackout/access: Pa39–Pa41; Oral rulings/colloquy: 1T:39–43, 1T158-178)

II. THE TRIAL COURT ERRED BY UNDERVUING THE PROPERTY DAMAGES AND REDUCING THE APPELLANT'S REPAIR REIMBURSEMENT FROM $1,350 TO $425. (THIS RULING CONTRADICTS THE LEASE AGREEMENT), BY DISREGARDING BOTH THE LEASE TERMS AND MISINTERPRETATING THE SUPPORTING EVIDENCE, THE COURT MISAPPLIED THE FACTS AND THE LAW. THIS ERROR WARRANTS REVERSAL ON APPEAL. 20

*(*Raised Below*:* Lease—Clause 11.1: Pa33; Itemized deductions: Pa38; Photo exhibits: Pa42–Pa45; Oral ruling: 1T:178–184).

CONCLUSION 29

TABLE OF JUDGMENTS, ORDERS AND RULINGS

CIVIL ACTION ORDER DECISION
On February 28, 2025 Pa 1

MOTION ORDER for ORDER TO RECONSIDER JUDGEMENT
On April 15, 2025 Pa 55

FILED, Clerk of the Appellate Division, September 11, 2025, **A-002643-24**

TABLE OF APPENDIX

Appendix document	Appendix page number
CIVIL ACTION ORDER DECISION A bench trial on February 28, 2025	Pa 1
Complaint, filed On September 20, 2024	Pa 2
Answer: Defendant's response, filed on November 1, 2024	Pa 29
Defendant's counterclaim filed on January 7, 2025	Pa 47
Defendant's motion seeking to amend the judgment Filed March 31, 2025 with two supporting exhibits	Pa 50
Motion hearing on April 15, 2025, ORDER TO RECONSIDER-Denied by Judge Since the motion filed exceeded the deadline	Pa 55
Notice of Appeal filed on April 25, 2025 and revised on June 15, 2025	Pa 56
Civil Case Information Statement filed on April 25, 2025	Pa 59
A Notice of Motion, filed on April 25, 2025 and revised on June 15, 2025	Pa 62
Request Oral Argument filed on June 15, 2025	Pa 66

TABLE OF AUTHORITIES

Authority	Brief Page Number
Court Rules:	
NJ Model Civil Jury Charge 8.45	19
Common Law Principles	19
N.J.S.A. 46:8-6	29
N.J.S.A. 46:8-19 et seq.	29, 32
Case law:	
Donovan v. Bachstadt, 91 N.J. 434 (1982)	19
Perini Corp. v. Greate Bay Hotel & Casino, Inc., 129 N.J. 479 (1992).	19
Alston v. Thomas, 161 N.J. Super. 403 (App. Div. 1978).	29

PRELIMINARY STATEMENT

I. The trial court erred by failing to allow a valid $3,400 lease-based deduction for rental losses caused by the respondent's material breaches of four commercial lease agreements. The court relied on the respondent's false claim that the appellant orally agreed to postpone property showings for 45 days and consented to these breaches. No such oral or written agreement existed. Despite this, for the remaining 31 days of the permitted showing period, the respondent refused or obstructed numerous showings, in clear violation of the lease. The appellant, in fact, sent written warnings on May 1 and May 14, 2024, stating that continued violations could lead to forfeiture of the security deposit and possible eviction, but the respondent insisted her violations.

These actions caused the appellant to lose one month of rent ($3,500). The court wrongly accepted the respondent's misrepresentation, disregarded the appellant's pleadings, oral arguments, text message evidence, counterclaim, and a corroborating witness statement, and denied the deduction. It then compounded the error by imposing a $3,400 penalty, doubling the financial harm to the appellant.

II. In addition to the rental loss, the respondent—along with her family members and movers—caused substantial damage to the property, including multiple walls

and more than ten kitchen cabinets. She also failed to perform all required maintenance under the lease, such as dryer vent cleaning, deck power washing, etc.

The respondent falsely told the court that no damage had occurred, despite the appellant submitting 26 representative photographs (out of more than 60 taken) with the itemized security deposit deductions clearly showing the damage. The trial court either misinterpreted or ignored this evidence and wrongly reduced or eliminated valid repair reimbursements, while disregarding the respondent's maintenance obligations clearly set out in the lease.

Although the appellant incurred $1,650 in actual repair costs, only $1,350 was claimed after accounting for normal wear and tear. Under the lease, the appellant was entitled to a standard $1,000 deduction plus the actual repair costs. Nevertheless, the trial court awarded only $425 and added a $925 penalty—effectively doubling the loss and imposing an additional unwarranted financial judgment against the appellant.

III: The respondent has exhibited a pattern of knowingly making false statements, both in her filed pleadings and during oral arguments before the court, and even presented fabricated evidence at trial. The appellant categorically denies all allegations in the respondent's complaint purporting to describe any oral

agreements or conversations, as such claims are entirely fabricated, misleading, and wholly unsupported by any credible evidence.

PROCEDURAL HISTORY

1. **Filing of Complaint**. On September 20, 2024, the plaintiff commenced this action by filing a complaint seeking a full refund of the security deposit. (pa2–pa28)
2. **Defendants' Response.** On November 1, 2024, the defendants filed their response. (pa29–pa46) The response included:

a. A list of six commercial lease violations allegedly committed by the plaintiff and a statement that no agreements existed other than the written lease. (pa29)

b. A letter dated on August 3, 2024 from the listing real estate agent (witness) attesting to two major lease violations by the plaintiff that resulted in the loss of one month's rent. (pa30)

c. A copy of the executed commercial lease agreements signed off on July 13, 2024. (pa31–pa37)

d. A letter dated on August 27, 2025 itemizing security-deposit deductions and listing violations/damages (pa38); May 14, 2024 text messages regarding the 75-day issues and defenses (pa39–pa41); and twenty-six photographs documenting property damage and subsequent repairs. (pa42–pa46)

3. **Filing of Counterclaim.** On January 7, 2025, the appellant filed a counterclaim seeking $4,720 in damages. (pa47–pa49) The counterclaim incorporated the defendants' response. (pa29–pa46)
4. **Bench Trial and Judgment.** A bench trial was held on February 28, 2025. Following oral argument, the court declined to consider the defendants' counterclaim with prejudice and entered judgment against the defendants in the amount of $8,969.97. (pa1, 1T:184-191)
5. **Post-Judgment Motion**. On March 31, 2025, the appellant moved to amend the judgment, asserting the court failed to consider the plaintiff's contractual breaches. (pa47–pa54) The motion included evidence that the plaintiff provided a false forwarding address.
6. **Hearing on Post-Judgment Motion**. On April 15, 2025, the court held a hearing and dismissed the motion as untimely, expressly advising the appellant to seek appellate relief. Notice issued April 22, 2025. (pa55)

7. **Notice of Appeal.** On April 25, 2025, the appellant filed a Notice of Appeal. A corrected version was emailed on June 15, 2025. (pa56–pa58)
8. **Civil Case Information Statement**. On April 25, 2025, the appellant filed the Civil Case Information Statement. (pa59–pa61)
9. **Notice of Motion** (Appellate). On April 25, 2025, the appellant filed a Notice of Motion. (pa62) On June 9, 2025, the Court issued a Motion Filing Notice assigning Motion No. M-004936-24. (pa63) On June 15, 2025, a Certification in Support of Motion to File Notice of Appeal as Within Time was filed. (pa64–pa65)
10. **Request for Oral Argument**. On June 15, 2025, the appellant requested oral argument. (pa66)
11. **Transcript for Trial date on Feb 28, 2025** requested on April 16, 2025 and received on June 23, 2025 (1T:1-191)[1]

STATEMENT OF FACTS

On July 13, 2023, the appellant (landlord) and respondent (tenant) executed a written commercial lease (Pa31-Pa37) for 59 Tannery Hill Road, Hamburg, New Jersey 07419, for a term commencing August 1, 2023, and ending July 30, 2024.

[1] 1T Feb 28, 2028 Trial Transcript

The proposed lease was emailed to the respondent on or about July 10, 2023, providing adequate time for review prior to signing.

At the July 13, 2023, in-person meeting—attended by both parties and their respective real estate agents—the respondent spent quite long time, reviewed the lease terms, asked questions regarding Section 11 ("Tenant's Maintenance Responsibilities" (Pa33) and Section 22 ("Additional Provisions" (Pa36), confirmed understanding, accepted the obligations, and signed the agreement. Respondent took possession of the premises on July 30, 2023, two days before the lease commencement date.

On August 6, 2023, eight days after move-in, the respondent sent the appellant 62 photographs alleging certain damages or uncleanliness. Only two photos showing grease and wear around three kitchen cabinet knobs, and one photo of a minor stairwell scratch, were relevant to the present dispute.

Over the next two weeks, the appellant twice requested access to perform repairs and cleaning, but the respondent refused, citing her ongoing moving process. These refusals violated Clause 15 (Pa34) of the lease, which grants landlord access with 24 hours' notice. The respondent never advised when the property would thereafter be available.

In late April 2024, the respondent gave notice of non-renewal. On May 1, 2024, the appellant requested realtor agent to list the property for rent, with showings to begin May 17, 2024—75 days before lease end. Clause 22, Section 2 required only three hours' notice (Pa36), yet the respondent demanded 48–72 hours. The appellant advised in writing that refusal would be a material breach subject to eviction and forfeiture of the security deposit.

On May 14, 2024, the listing agent, Chris Bruscino, scheduled the first showing for May 17. The respondent refused, declined to provide alternative dates (Pa30), and used aggressive language. The appellant then personally offered to have her chosen agent or to conduct the showing himself—offers that went unanswered. A second written notice reiterated the lease provision and warned of breach consequences (Pa39-Pa41).

In response, the respondent asserted—without legal authority—that the lease provision violated New Jersey law (Pa39), her sole stated reason for refusal. She did not mention any disability or request an accommodation until filing suit to either landlord or the relator agent (Pa30).

On May 18, 2024, Bruscino recommended removing the property listing due to the respondent's lease breach and her refusal to permit any showings, and further suggested deducting the security deposit for this breach. The landlord agreed, as the respondent had already been warned twice—via text messages on May 1 and May 14, 2024—that such conduct could result in security deposit deductions (Pa39-Pa41).

On June 18, and 19, 2024, another agent, Jennette Burke, attempted to schedule showings, but the respondent failed to return her calls (Pa30). The first showing did not occur until June 29, 2024 (Pa13), and was arranged through the respondent's own agent. From May 14 onward, the respondent refused all showing requests and restricted access for 44 consecutive days, preventing the property from being marketed. During the remaining 31 of the 75 authorized showing days, she further limited access to a single one-hour weekly window around midday and denied numerous additional showing requests, effectively preventing most prospective tenants from viewing the property (Pa30). These actions directly caused a one-month rental loss of $3,500 (1T133).

At lease end, the respondent failed to vacate in undamaged condition. She twice delayed the final walk-through (Pa29, Pa47-Pa49). When the appellant arrived around noon on August 1, 2024, he found her still cleaning while her daughter attempted to conceal stairwell damage with mismatched paint (pa43). Following inspection revealed damage to kitchen cabinets (Pa44-Pa45), basement walls (Pa42) and kitchen walls (Pa43-Pa44), as well as the all-other damages to the walls around stairways in both basement (Pa42) and upstairs (Pa43) which were consistent with improper furniture moving.

That same day, the appellant requested the respondent's forwarding address three times to send the security deposit refund with itemized deductions. She eventually provided an address, which the USPS deemed invalid, obstructing delivery (Pa54).

Respondent violated Clause 11, §4 by failing to perform required maintenance, including dryer-vent cleaning and annual deck power washing (Pa33, Pa46). At trial, she falsely testified that the homeowners' association (HOA) performed deck washing (1T:153). The appellant informed the court that deck washing is not an HOA responsibility (1T:155), yet respondent repeatedly claimed she saw the HOA

wash the deck (1T:153–156). The property manager later confirmed the HOA washes siding only—not decks.

Appellant incurred $1,650 in repair costs and, after crediting ordinary wear and tear, sought $1,350. The lease provides a $1,000 standard deduction for minor scratches plus responsibility for additional repair costs (Pa33). Disregarding the lease, the court awarded only $425 (1T:178–184), resulting in a $925 shortfall—effectively penalizing the appellant despite the contract's cost allocation.

After receiving the itemized deductions, Respondent did not dispute any cited violations, demanded a full refund of the security deposit, ignored the rental-loss and property-damage claims, and replied: "See me in court."

At trial, the court reviewed the subsequent tenant's lease (Pa31-Pa37, 1T121), the lease for the new tenant following the respondent (1T121), the repair invoice (1T127), and all damage photographs (Pa42-Pa45). The respondent submitted 62 photographs as evidence of damage or issues allegedly existing before her move-in; however, only three were relevant to this lawsuit—two depicting kitchen cabinet door knobs and one showing stair wall damage.

Respondent testified that the photographs were taken within approximately two hours of move-in and that each was date- and time-stamped (1T19; Pa11). Yet she submitted Plaintiff's Ex. P-1—two photos allegedly showing preexisting kitchen-cabinet-door damage—with no dates. Appellant objected and identified the omission as false/misleading evidence (1T:92), and the court clerk confirmed that no dated photographs were on file (1T:92–93).

The respondent's submission of undated photos—paired with the fact that existing photos clearly showed more extensive kitchen cabinet damage—demonstrates an attempt to conceal her own damage and mislead the court (1T92-1T93). The appellant has retained the respondent's original two photos as part of the evidentiary record.

ARGUMENT

I. THE TRIAL COURT ERRED IN REJECTING A VALID LEASE-BASED DEDUCTION FOR RENTAL LOSS CAUSED BY RESPONDENT'S BREACHES. THE COURT DISREGARDED THE VALID LEASE, EXHIBITS, WITNESS LETTER, AND COUNTERCLAIM, ACCEPTED RESPONDENT'S UNSUPPORTED ASSERTIONS, AND MISCALCULATED THAT THE 45 DAYS DELAYS DID NOT AFFECT TIMELY RE-RENTAL. IT THEN AWARDED DAMAGES TO THE BREACHING PARTY WHILE DOUBLE-PENALIZING THE LANDLORD—A TOTAL OF $6,800.

(Raised Below: Final Judgment: Pa1; Lease: Pa31–Pa37; Realtor witness letter: Pa30; Itemized deductions: Pa38; Texts re 45-day blackout/access: Pa39–Pa41; Oral rulings/colloquy: 1T:39–43, 1T158-178)

In each of the two years preceding the current lease term, the appellant's listing agent, Chris Bruscino, successfully secured new tenants for the subject property within approximately one month of listing. In 2022, the premises were listed on April 7, and a lease was executed on May 4, with a commencement date of May 15—forty (40) days from listing to lease start. In 2023, the property was listed on June 14, and a lease was executed on July 13, with a commencement date of August 1—forty-nine (49) days from listing to lease start (pa12). These timelines provided the basis for the current lease provision granting the appellant and his agents the right to commence showings seventy-five (75) days prior to lease termination to ensure continuous occupancy and avoid rental income loss (Pa36).

The respondent materially breached this provision by delaying all showings for approximately forty-four (44) of the seventy-five (75) days authorized under the lease. During the remaining thirty-one (31) days, she continued to deny numerous showing requests and imposed unreasonable restrictions, rendering showings impractical or impossible. Her sole stated justification was her belief—unsupported by legal authority—that the lease provision violated New Jersey law (Pa39). At no

time and evidence did she inform the appellant or realtor agent Bruscino of her disability and medical treatment (Pa30, Pa38-Pa41), need for assistance that might warrant accommodation (1T170), nor did she request leniency for her nonperformance (Pa30, Pa38-Pa41). In her pleadings (Pa2–Pa28) and testimony (1T:170), Respondent offered various excuses for restricting showings. Yet neither Respondent nor the court addressed the dispositive point: re-letting required only her consent—readily given by phone or text—which she never provided.

Despite the respondent's obstructions, the appellant's agents secured an applicant on July 31, 2024, with a rental commencement date of September 1, 2024. This resulted in a one hundred four (104) day gap between the first showing denial and the new lease start (1T133)—substantially longer than the forty (40) and forty-nine (49) day turnover periods achieved in the prior two years. As a direct and proximate result of the respondent's breaches, the appellant incurred a loss of one month's rental income for August 2024 in the amount of $3,500 and was further deprived of the opportunity to lease the premises to other highly qualified applicants.

In her lawsuit (Pa14), the respondent asserted to the court: "We reached a compromise: showings would begin 45 days before my lease expiration and I would receive a minimum of 48 hours' notice before each showing." This statement was entirely false and misled the trial court into making an erroneous ruling. Other than

the written lease agreements, the appellant never entered into any separate oral or written agreement with the respondent regarding showings. Furthermore, over ninety percent (90%) of the respondent's claims in her lawsuit consisted of false and misleading statements.

Clause 26 of the lease agreement (pa37) expressly provides that "any modifications to this Agreement must be in writing signed by Landlord and Tenant." Oral modifications are prohibited and, even if alleged, are legally invalid. The only binding obligations between the parties are those contained in the fully executed lease contracts.

Multiple facts establish the falsity of the respondent's claim that a "45-day showing delay" agreement existed:

- On May 14, 2024, when the respondent denied the first showing to both Bruscino and the appellant, the appellant sent her the relevant lease provision by text, advising that her refusal constituted a lease violation subject to eviction and forfeiture of the security deposit (pa39 – pa 41).
- Clause 26 (no-oral-modification). Clause 26 requires any agreement or modification to be in a writing signed by both landlord and tenant (Pa37). The respondent produced no such writing and, when the court asked eight

times to identify when the defendant agreed to any alleged side agreement, could not supply a date (1T:39–43)—because no agreement exists. Absent competent written proof (1T171), the court should have enforced the lease as written; instead, it credited an unsupported oral assertion, in violation of Clause 26.

- No corroboration; broker denial. If any such agreement existed, both the appellant and the listing broker would have known; neither did before suit. Listing agent Chris Bruscino confirms no agreement was ever made or communicated (Pa30). (Contact: (973) 903-5917; chrisbruscino@realtyexecutives.com).
- No "45-day agreement" appears in any text messages or emails between the parties (Pa2-Pa55). Other events, documented by evidence and witness testimony, further prove the nonexistence of such an arrangement.
- In the respondent's own 16-page, 27-screen compilation of text messages and emails submitted as evidence in her lawsuit (pa 2–pa 28), this purported agreement is entirely absent.
- Forty-one (41) days before lease expiration, realtor agent Jeannette Burke requested a showing; the respondent failed to respond (witness letter, pa30).

If the alleged 45-day agreement existed, she would have informed the agent of it.

- The court asked Respondent, "Did he ever relent and agree to the 45 days?" and then repeated, "When did he agree to the 45 days?" four times (1T:39–42). Respondent could not answer and, even on the fourth inquiry, still failed to supply a date. Appellant objected, noting that Respondent was falsely attributing statements to him (1T:41). The court sought clarification—"So he agreed to the 45 days. You do not recall when?" (1T42)—yet Respondent still offered no clear answer. In total, the court posed essentially the same question eight times—"When did he agree to the 45 days?" (1T:42)—and Respondent never identified a specific date or provided competent details supporting this central claim. The court's earlier follow-up—"He said no at least twice that you testified to, so at some point he said yes?" (1T40)—was appropriate; Respondent's continued inability to identify when the appellant supposedly agreed to postpone showings for 45 days further demonstrates that her account is unsupported and fabricated.
- Notably, the respondent first permitted a showing—conducted by her own agent, Natalie Chiesa—on June 29, 2024. This represented a 44-day delay, leaving only 31 days before lease expiration. This timing may explain why

the respondent fabricated the “45-day delay” story. Although this showing occurred just 4.5 weeks before the lease expired, the respondent told the court it was six weeks before the first showing (1T43).

- After receiving the itemized deduction letter for one month’s rent deduction due to her breaches (Pa16-Pa17, Pa38-Pa46), the respondent did not invoke the alleged 45-day agreement in her defense, despite having the opportunity to do so. This omission further undermines her claim.
- If such an agreement truly existed, the appellant would not have deducted one month’s rent from the security deposit. Yet from the August 27, 2024 itemized deductions through the March 31, 2025 motion—and throughout this appeal—the appellant has consistently maintained that the deduction was contractually proper. (See Pa38; Pa47–Pa54.)

2. The Trial Court Improperly Relied on a False and Unsubstantiated Claim by the Respondent

The court’s earlier follow-up—“He said no at least twice that you testified to (regarding the 45-day postponement agreement)?” (1T40)— followed by total eight separate inquiries as to when the appellant allegedly agreed, yet the respondent never provided a clear answer. Nevertheless, the trial court’s ruling

relied on the respondent's false assertion that the appellant consented to a "45-day showing postponement agreement"—an arrangement that never took place.

The appellant presented ample evidence to refute this claim, including:

- Oral testimony at trial affirming that no such consent was given (1T:117-119);
- Text message warnings sent on May 1 and May 14, 2024, advising the respondent of lease violations and the potential consequences of eviction and forfeiture of her $5,100 security deposit (pa39 - pa 41).
- A corroborating witness letter supporting the appellant's position (Pa30).
- The itemized deduction letter on 8-27-2025 detailed violations (Pa38).
- Defendant's Nov 1, 2024 answers (pa29 - pa41).
- Defendant's counterclaim filing (pa47- pa49).
- Defendant motion to amend judgement (Pa50-Pa54)

The court improperly disregarded valid lease agreements, this testimony and documentary evidence, while accepting the respondent's oral misrepresentation as fact. In reality, the respondent's conduct—postponing all showings for forty-four (44) days, then denying or severely restricting access during the remaining

thirty-one (31) days—directly caused the loss of one full month's rent in the amount of $3,500.

Despite this, the trial court rejected the appellant's valid claim for a $3,400 rental loss deduction and compounded the error by awarding a $3,400 penalty against the appellant, effectively doubling the financial harm to $6,800.

NJ Model Civil Jury Charge 8.45 (Breach of Contract—Damages) — explains expectation/foreseeability/reasonable certainty standards. Under New Jersey law, a breaching party is liable for expectation damages—including foreseeable lost profits proven with reasonable certainty—so as to place the non-breaching party in the position it would have occupied had the contract been performed.

Common Law Principles, codified through case law and jury instructions governing: These aim to put the non-breaching party in the position they would have occupied if the contract had been fulfilled: Include direct damages or foreseeable consequential losses like lost profits.

Perini Corp. v. Greate Bay Hotel & Casino, Inc., 129 N.J. 479 (1992). Rule: Confirms availability of lost-profit damages in contract disputes and the NJ Supreme Court's deference to arbitration awards addressing such damages.

Donovan v. Bachstadt, 91 N.J. 434 (1982) Holding: Confirms benefit-of-the-bargain contract damages in NJ; buyers can recover foreseeable losses (e.g., increased mortgage costs) when a real-estate seller breaches.

This erroneous judgment should be reversed on appeal, and the $6,800 award vacated.

The trial court noted a grammatical error in lease provision; however, the provision nonetheless conveys a clear and unambiguous meaning. For illustrative purposes, the following reflects how AI ChatGPT interprets that provision:

ChatGPT 4o:

The Statement: "Violation will be considered as the lease breach and subject to lose security deposit."

Is attempting to say that if the tenant violates the lease, those violations will be treated as a breach, and the tenant may lose their security deposit as a result.

The court erroneously found that the listing was withdrawn and no eviction was filed pursuant to a mutual agreement (1T:171). That is incorrect. The listing agent recommended—and was ultimately forced—to remove the initial listing because the

tenant withheld access; without the tenant's consent, no broker could show the unit, rendering the listing futile and necessitating repeated, confusing explanations to prospects (1T:118–120). Moreover, both the realtor and the appellant warned Respondent that her violations could lead to eviction and forfeiture/application of the security deposit (Pa39–Pa41). Eviction was not initiated because the appellant pursued the contractual remedy of applying the security deposit after giving notice—not because of any mutual agreement. Finally, the 35–40-day blackout was proposed by Respondent, expressly flagged as a lease violation (1T:118–120); the appellant never agreed to it.

Because the tenant refused access and prevented showings, the landlord's mitigation efforts were thwarted. Any alleged failure to mitigate is therefore excused, and the landlord is entitled to recover the actual vacancy loss.

II. THE TRIAL COURT ERRED BY UNDERVALUING THE PROPERTY DAMAGES AND REDUCING THE APPELLANT'S REPAIR REIMBURSEMENT FROM $1,350 TO $425. (THIS RULING CONTRADICTS THE LEASE AGREEMENT), BY DISREGARDING BOTH THE LEASE TERMS AND MISINTERPRETATING THE

SUPPORTING EVIDENCE, THE COURT MISAPPLIED THE FACTS AND THE LAW. THIS ERROR WARRANTS REVERSAL ON APPEAL.

*(*Raised Below*: Lease—Clause 11.1: Pa33; Itemized deductions: Pa38; Photo exhibits: Pa42–Pa45; Oral ruling: 1T:178–184).*

<u>Property Damage and False Testimony by Respondent</u>

The respondent and her associates caused significant damage to the property, including:

- Multiple damaged walls
- Damaged kitchen cabinet doors and drawers
- Failure to perform agreed maintenance responsibilities (dryer vent cleaning, deck power washing, etc.)

In her complaint (Pa2), Respondent falsely asserted: "The house was properly cleaned and cleared by 8/1/24, with no damages caused by me," and "Peter inspected the house but couldn't pinpoint any problems after thoroughly checking the property twice." Those statements are untrue and misleading. During Appellant's inspections, he observed greasy, paint-stripped kitchen cabinets, wall damage along the upstairs stairway, and large damaged areas on the basement walls. On the afternoon of August 1, 2024, Appellant saw

Respondent's daughter attempting to repair damage on one side of the stair wall; a later inspection showed damage on all four stairway walls at similar heights—consistent with improper furniture moving.

At trial, Respondent also claimed the landlord was merely "worried" about damage and minimized the large basement wall damage (Pa42) as a "little mark." (1T:81)

Trial Court Misjudged and Undervalued the Extent of Property Damage

1. Basement Wall Damages

The damage to the basement walls was entirely caused during the respondent's tenancy and unquestionably required proper spackling and repair. Despite this, the trial court concluded, "I do believe that some of the damages aren't consistent necessarily with spackling, and some of them I think might have been prior" (1T179). This assumption is unsupported by the evidence.

- The property was inspected multiple times prior to the previous tenant's departure, and no such damage was observed or reported to that tenant.
- The respondent inspected the entire house, taking sixty-two (62) photographs to document every visible wall imperfection; therefore, it is implausible that she would have failed to capture or acknowledge the substantial damage to an

entire side of the finished basement wall—the very area where her son resided. Given the extent and nature of this damage, spackling was an essential first step in any proper repair. The trial court's assertion that "some of the damages aren't necessarily consistent with spackling" was both factually incorrect and professionally unsound in evaluating the necessary repair process.

- On August 1, 2024, at approximately 1:00 p.m., I observed the respondent's daughter attempting to repair the stairway wall using white paint. The same type of paint had also been used in an attempt to cover damage to the basement wall (Figure 2, Pa 42), further indicating that the wall damage occurred during the respondent's tenancy.

The invoice for repairing the basement wall totaled $450. The court awarded only $225—half of the actual repair cost—based on the erroneous assumption that some of the damage might have predated the tenancy. No credible evidence supports this finding, and both the photographic evidence and prior condition history clearly show that the damage occurred during the respondent's occupancy. Therefore, the appellant should have been awarded the full $450, plus the $225 penalty, as the responsibility for the basement wall damage lies entirely with the respondent.

2. Stairway Wall Damages

The four surrounding walls of the stairway sustained significant damage, as shown in (pa 43). The height and location of the most severe damage—approximately four to five feet above floor level—strongly suggest impact from furniture being moved through the stairwell. Four of these photographs clearly depict spackling applied to repair the wall gouges. This type of damage necessitates not only spackling and sanding but also repainting to restore the wall's original condition.

Given that three of the stairway walls are approximately eighteen (18) feet in height and require specialized work around stair steps, the contractor's repair estimate was $300. The appellant voluntarily credited the respondent $100 for a small preexisting low-corner blemish on one wall from the prior tenant, thus seeking reimbursement for $200 of the $300 expense.

The trial court, however, stated, "I don't think there was any action by the plaintiff that caused any damages" (1T180) and concluded that the $300 was for repainting, which it deemed "not a tenant's obligation unless there's damage that causes the painting" (1T180). This reasoning disregards key facts: The nature and location of the damage directly correlate with furniture movement during the respondent's move. The photographic evidence

demonstrates that spackling was required and applied (Pa43); once spackling is performed, repainting is necessary to achieve a proper finish.

It is implausible that the appellant would repaint the stairway walls—when the majority of the house was not repainted—unless required to repair tenant-caused damage.

By characterizing the work solely as "repainting" rather than repair, (1T180),the court ignored the five photographic exhibits showing visible wall damage and subsequent repair efforts (Pa43). This mischaracterization resulted in the complete denial of reimbursement for the stairway repairs, despite clear proof that the damage occurred during the respondent's tenancy and moving process.

For these reasons, the appellant maintains that an additional $200 credit should be awarded for the stairway wall repairs, plus an equivalent $200 as a double penalty under the applicable lease and statutory provisions.

3. Damage to Kitchen Walls

When the respondent moved in, the kitchen walls were undamaged, as no finding from the previous tenant leaving as well as confirmed by her own 62 move-in inspection photos (pa2-28). None showed any wall damage. The

appellant presented four photos (pa42 – pa43) clearly showing kitchen wall damage that occurred during the respondent's tenancy. These damages required spackling before repainting.

Although the total repair cost was $100, the appellant voluntarily deducted $40 because the prior paint was 14 months old (though covered by a lifetime warranty). Without the wall damage, no repainting would have been needed. The trial court, however, denied the $60 charge entirely, incorrectly treating the repair as mere repainting (1T180) and ignoring both the photographic damage evidence and the necessity of spackling (pa42 – pa43). The appellant seeks reinstatement of the $60 charge for partial repair costs and removal of the corresponding $60 double penalty.

4. Damage to Kitchen Cabinets

The appellant submitted 11 photographs (pa44 – pa45) showing significant damage to 10 kitchen cabinets for 16 doors, and 5 drawers, in addition to other unsubmitted photos of similar damage with less degree. In contrast, the respondent produced only two photos taken after move-in, showing minor grease marks on two door knobs in one cabinet and a small paint scratch

around a third knob. Those small preexisting marks could have been addressed with simple touch-up paint.

However, the extensive damage caused during the tenancy required full greasy cleaning, sanding, and repainting of the affected doors and drawers. While a single door repaint had cost the appellant over $400 in the past, the total cost for repairing more than 10 damaged cabinets was significantly reduced to $600. The appellant further credited the respondent $200 for the minor preexisting knob-area marks, seeking only $400 for the cabinet repairs.

The trial court improperly reduced this $400 charge by 50%, then imposed a $200 double penalty, effectively making the appellant fully responsible for the cabinet damage caused by the respondent and her associates.

The appellant seeks reinstatement of the $400 repair charge and removal of the $200 double penalty.

The photographic exhibits (Pa42–Pa45) show wall and kitchen-cabinet damage that far exceeds ordinary wear and tear and required repair. Accordingly, under the lease, the respondent is liable for the reasonable cost of those repairs as actual damages.

N.J.S.A. 46:8-6 and 46:8-19 et seq (the Security Deposit Law), if a tenant breaks a lease, they must pay for the landlord's actual damages (lost rent, costs to re-rent, repairs beyond normal wear).

Alston v. Thomas, 161 N.J. Super. 403 (App. Div. 1978). Confirms the landlord is entitled to retain that portion of the deposit necessary to compensate for damages actually sustained due to the tenant's breach—i.e., not normal wear-and-tear items.

5. Respondent's Failure to Perform Contractually Required Maintenance Responsibilities

Under Clause 11.4 of the lease (Pa33), the respondent was responsible for **arranging and paying** for (1) annual dryer vent cleaning and (2) annual power washing of the deck. Despite these clear obligations, the respondent failed to complete either task.

A. Dryer-Vent Cleaning (Clause 11, §4; Pa33)

The lease required Respondent to hire and pay a professional to clean the dryer vent. She did not; she only cleaned the lint filter, not the vent. Appellant then

hired a professional for $100 and included that amount in the itemized deductions.

The court struck the $100 charge as "unfair" because Respondent "did not know how to do it." That ruling contradicts the lease: the tenant bears the full responsibility; the landlord has no duty to instruct or to clean residue from the tenant's routine use. In comparable tenancies, this work is routinely done by contractors at the tenant's expense.

Because of this error, Appellant absorbed the $100 cost plus a $100 penalty (total $200). The Court should reinstate the $100 charge and vacate the $100 penalty.

B. Deck Power Washing

The lease required Respondent to arrange and pay for annual deck power washing. She did not. Appellant paid $100 to have it done but, consistent with the estimate given at lease signing, charged Respondent only $60 and absorbed the $40 increase.

The court struck the $60 charge based on Respondent's repeatedly claim that the property manager had already washed the deck (1T:153–156) . That claim

was false: the manager's responsibility is limited to siding, not decks. After trial, property manager Carolyn Cross (Allure Properties Group) confirmed orally and in writing that only the siding is power washed.

Because the court relied on a false assertion, it improperly removed the $60 charge. The Court should reinstate the $60 deck-washing charge and vacate the corresponding $60 penalty.

CONCLUSION

The judgment rests on factual errors, reliance on unsubstantiated assertions, and disregard of the written lease and supporting evidence.

Lost rent. The court wrongly rejected Appellant's $3,400 lease-based rental-loss deduction, crediting a non-existent oral agreement. Respondent's access restrictions (a full blackout, then severe limits) caused the vacancy loss. The court compounded the error by imposing a $3,400 penalty, doubling the harm to $6,800.

Repairs & maintenance. The court undervalued proven property damage and ignored the lease's allowance for a $1,000 standard deduction plus actual repair costs (total claimed $1,350). Awarding only $425 and adding a $925 penalty further misapplied the facts and law.

Under New Jersey contract principles and the Security Deposit Law (N.J.S.A. 46:8-19, 46:8-21.1), a breaching tenant is responsible for the landlord's actual damages (lost rent, reasonable re-letting costs, and repairs beyond ordinary wear and tear).

Respectively submitted

Peter Lu

Dated: September 11, 2025

FILED, Clerk of the Appellate Division, October 15, 2025, **A-002643-24**

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

DOCKET NO. A-002643-24-T1

RECEIVED
APPELLATE DIVISION
OCT 15 2025
SUPERIOR COURT
OF NEW JERSEY

BENNY OMIUNU,

Plaintiff-Respondent

v.

PETER LU,

Defendant-Appellant.

CIVIL ACTION

ON APPEAL FROM

SUPERIOR COURT, LAW DIVISION
SUSSEX COUNTY

Honorable DAVID J WEAVER, J.S.C.

Sat below

BRIEF FOR
RESPONDENT BENNY OMIUNU

BENNY OMIUNU
RESPONDENT
14 CARAWAY CT
PRINCETON, NJ 08540
(609) 255-3194
bomiunu19@gmail.com

FILED, Clerk of the Appellate Division, October 15, 2025, A-002643-24

TABLE OF CONTENTS

Page

PRELIMINARY STATEMENT.. 1

PROCEDURAL HISTORY.. 4

ARGUMENT.. 5

I. THE TRIAL COURT RIGHTFULLY FOUND THAT THE APPELLANT WRONGFULLY WITHHELD THE SECURITY DEPOSIT AFTER HEARING ALL THE EVIDENCE OF THE CASE.
(Raised below: Pa1; Pa12; 1T164-165; 1T173; 1T187; 1T189).... 5

II. THE COURT PROPERLY REJECTED THE APPELLANT'S CLAIM OF THREE LEASE VIOLATIONS AS THE BASIS FOR WITHHOLDING A FULL MONTH'S RENT.
(Raised below: Pa12; Pa13; 1T169 to 171; 1T173; 1T177 to 178: 1T189) 7

III. THE CORRECTLY FOUND THAT MOST OF THE APPELLANT'S DEDUCTIONS FOR DAMAGES WERE NOT CREDIBLE AND ONLY AWARDED HIM WHAT WAS FOUND TO BE VALID DEDUCTIONS.
(Raised Pa7–Pa8; 1T179-24 to 180-1)................................ 11

IV. THE COURT FOUND THAT A NEW TENANT SIGNED A LEASE IN JULY AND MOVED-IN IN AUGUST MAKING THE APPELLANT'S CLAIM OF RENT LOSS NOT CREDIBLE
(Raised Pa12; 1T173–13 TO 173-1 TO 5)............................. 14

CONCLUSION.. 15

TABLE OF JUDGMENTS, ORDERS AND RULINGS

CIVIL ACTION ORDER DECISION
On February 28, 2025.. Pa1

MOTION ORDER for ORDER TO RECONSIDER JUDGEMENT
On April 15, 2025.. Pa55

TABLE OF AUTHORITIES

Authority

Court Rules:

N.J.S.A. 46:8-21.1 5

Case Law:

Alston v Thomas,
161 N.J. Super. 403 391 A.2d 978 (App. Div. 1978) 6

Gibson v. 1013 North Broad Associates,
172 N.J Super. 191, 411 A.2d.711 (App. Div. 1978) 6

Hale v. Farrakhan,
915 A.2d 581, 390 N.J. Super. 335 (App. Div. 1978) 6

PRELIMINARY STATEMENT

This appeal stems from the appellant seeking to overturn a well-reasoned trial court judgment that correctly found that he, the landlord, unlawfully withheld the respondent's security deposit in violation of the state statute, which provides strict requirements for the return of tenants' security deposits. The appellant based his actions on three (3) alleged lease violations by the respondent, which he stated warranted his forfeiture of a full month's rent (of $3,400) from the security deposit to compensate for his loss of rent for the month of Aug. 2024, the month after the respondent moved out. The appellant was also found to have wrongfully deducted most of the amounts for damages, as the court deemed many to be unsubstantiated.

The appellant stated that the first lease violation was the respondent's request for the showings to be delayed for 30 days, as she was recuperating from injuries sustained at the residence and was hospitalized for almost 2 months, resulting in serious health and mobility issues. The second violation was that the appellant lost his "qualified candidate" because of the 30-day delayed showings, and his third violation was that the respondent overstayed her lease by one day when the walk-through was moved to a day later, on August 1, 2024. The court justifiably found that the first violation was not credible, as the start date of the showing

30 days later was eventually agreed upon by both parties. A letter submitted into evidence by the appellant, that was written by his realtor on his behalf, showed that there was an understanding between both parties and that the appellant relented on the start date because of the change in the respondent's circumstances due to her injuries, showing that the appellant provided the accommodation.

The court correctly found that the second violation, regarding the loss of the appellant's "qualified candidate," was not a credible violation, as the lease was modified for the showings. In addition, the qualified candidate, who was the first client at the showings, was later found to be a con artist, per the appellant's realtor. She stated that all the candidate's info did not match up and was fraudulent. Copies of the realtor's text were part of the exhibits submitted by the respondent at the trial.

The court rightly determined that the third violation was not viable as well. The appellant's claim that the respondent overstayed a day after the end of her lease was deceitful, and the trial court fittingly found it not to be case and therefore, stated it was not credible. The respondent moved out on July 31, 2024. The appellant was asked and agreed to have the walk-through the next day due to the respondent's mover delay. Copies of the text conversation were

accepted into the trial exhibits. The trial court decided that the three lease violations were not viable and did not equate to show any damages to the appellant; as such, his withholding of the full month's rent was determined to be wrongful. The court went through the appellant's deductions for damages and concluded that most of his deductions were unsubstantiated and awarded him only what the court deemed valid deductions totaling $425. The trial court appropriately entered judgment for the plaintiff (respondent) and against the defendant (appellant) by doubling only the amount the court found was wrongfully withheld, by law, and did not double the amount the appellant attempted to return to the respondent in good faith. The respondent was awarded a judgment in the amount of $9,051.97.

PROCEDURAL HISTORY

		Pages
Sep. 20, 2024.	**Plaintiff's complaint** (SSX-DC-004413-24) seeking return of the security deposit.	Pa2
Nov. 01, 2024.	**Defendant responded** to the complaint.	Pa29
Jan. 07, 2025.	**Defendant's counterclaim.**	Pa47
Feb. 28, 2025.	**Bench Trial and Judgment,** issued for plaintiff and against the defendant.	Pa1
Mar. 21, 2025.	**Plaintiff's motion to pay**.	Pa47
Mar. 31, 2025.	**Defendant's motion to reconsider** the judgment.	Pa47
Apr. 15, 2025.	**Post-judgment motion hearing** held for plaintiff's motion to pay and defendant's motion to reconsider. Both were denied.	Pa55
Apr. 16, 2025,	**Appellant's Request for Trial Transcript**	
Apr. 25, 2025.	**Notice of Appeal**	Pa56
Apr. 25, 2025.	**Appellant's Civil Case CIS**	Pa59
Apr. 25, 2025.	**Appellant's Notice of Motion**	Pa64
Jun. 15, 2025.	**Appellant's Request for Oral Argument**	Pa66
July 22, 2025.	**Hearing on post Judgment motion** held, Defendant's motion dismissed.	Pa55

ARGUMENT

I. THE TRIAL COURT RIGHTFULLY FOUND THAT THE APPELLANT WRONGFULLY WITHHELD THE SECURITY DEPOSIT AFTER HEARING ALL THE EVIDENCE OF THE CASE.

(Raised below: Pa1; Pa12; 1T164-165; 1T173; 1T187; 1T189)

The trial court duly found that the appellant, the landlord, unlawfully withheld the respondent's security deposit in violation of state law, N.J.S.A. 46:8-21.1. The appellant claimed his action was based on three (3) alleged lease violations committed by the respondent, which he stated justified his withholding an entire month's rent to compensate for his loss of rent for the month of August 2024, after the respondent moved out. The court also found that the appellant made baseless deductions for damages that the court found mostly to be unsubstantiated based on all documents and testimony at the trial. (1T187-11 to 13).

Appellant's claim of loss of rent for the month of August 2024, after the respondent's move-out, was found by the court to have no merit, as a lease was signed by a candidate before the respondent vacated the premises and the online listing was taken down on July 31, 2024, confirming that the house was rented

(1T173-8 to 14). A photo of the removal of the online listing was submitted into evidence by the respondent (Pa12).

After hearing the testimonies from both parties and reviewing the evidence, the court found that the respondent did not commit any violations that warranted the appellant's deductions and forfeiture of the security deposit (1T189-3 to 4). The judge made his decision pursuant to the law and supported by the ruling of *Hale v. Farrakhan*, 915 A.2d 581, 390 N.J. Super. 335 (1978), which states that, "Once the Judge finds that the landlord has wrongfully withheld all or part of the security deposit, the tenant is entitled to the statutory penalty of double the amount wrongfully withheld." The court stated that the respondent's remedy is not the amount of the security deposit; it's the amount that's wrongfully withheld by the appellant, citing, Alston v Thomas, 161 N.J super 395 Act 391 A.2d 978 (App. Div. 1978) to support the ruling.

The court applied another case, Gibson *v. 1013 North Broad Associates*, 17 N.J. Super. 191, 411 A.2d 711 (1978). In this case, the defendant wrongfully withheld the security deposit, and the trial court gave twice the security deposit as a penalty. The court held that the statutory penalty was not any less mandatory simply because the complaint failed to demand double the amount of the security deposit (1T164-13 to 165-1 to 9). As in this case law, the court's ruling was that

while the respondent didn't request the doubling penalty, that per statute, it has no discretion but to double the penalty as it's automatic.

II. THE COURT PROPERLY REJECTED THE APPELLANT'S CLAIM OF THREE LEASE VIOLATIONS AS THE BASIS FOR WITHHOLDING A FULL MONTH'S RENT

(Raised below: Pa12; Pa13; Pa14; 1T169 to 171; 1T173; 1T177 to 178: 1T189)

The appellant's first alleged violation was that the property showings were moved back 30 days to begin 45 days before the lease termination. The lease had 75 days but was unclear. The landlord considered this a lease breach and claimed that this violation alone justified withholding the entire security deposit. The court found that the lease was not crystal clear and that generally, when such ambiguity exists, it is resolved against whoever prepared the document, which in this case was the landlord (1T169-16 to 22; 1T170-2 to 6).

The respondent testified that she was hospitalized beginning in March 2024 for over seven weeks due to serious injuries sustained at the property. After discharge, she underwent six weeks of intensive infusion therapy twice a day. Given her condition, the respondent requested that showings be delayed for 30 days, to at least 45 days before the end of the lease, as an accommodation, and

the appellant later agreed after extensive back-and-forth. A letter from the appellant's realtor, entered into evidence on his behalf, confirmed this agreement (1T171-10 to 20).

During the appellant's testimony at the trial, the court found that his intention was to keep a month's rent whether he found a new tenant or not. Although he didn't state this explicitly, his testimony made this intention clear (1T173-1 to 8). The court, however, found there was no basis to show that the respondent's conduct prohibited the appellant from renting the house in a timely fashion. (1T173-8 to 11). The showings began 45 days prior to the end of the respondent's lease, and the appellant was able to secure a tenant from the showings within this time. The house was rented out prior to the respondent moving out. With this finding, the court justifiably found this alleged lease violation was not credible. (Pa12).

The second reason the appellant cited for the three violations was that since the showings didn't begin 75 days prior to the respondent moving out, he incurred a loss because he was unable to rent the house timely to his preferred 'qualified candidate', who was vetted and ready to sign a lease. The appellant claimed that he lost this candidate because of the delayed showings. This was a total fabrication.

The respondent testified that the appellant's 'highly qualified candidate' was scheduled first to see the house when the showings began. The respondent was present at the showing. The candidate praised how nice and clean the house was and asked the realtor to prepare the lease. Days later, the realtor informed the respondent that the candidate was a fraud (1T172-17 to 21). All the candidate's information was found to be fraudulent. A copy of the realtor's text message was admitted into evidence at trial. (Pa13)

The realtor scheduled multiple showings after the 'highly qualified candidate' debacle, and another candidate was selected before the respondent moved out. The new tenant moved in August 2024, the month after the respondent moved out. The respondent presented this fact at trial as the appellant wasn't aware that the respondent found out that the new tenant moved-in in August, his initial claim before the trial was that he was unable to rent the house out, due to the showing delay. He did confirm during his testimony that the new tenant moved in the following month, after the respondent's testimony. The trial court found that "there's no basis to show that whatever the respondent's conduct was, prohibited the appellant from renting the house in a timely fashion". (1T173-8 to 11). The court concluded that even if the "qualified candidate" had seen the

house earlier, the outcome would have been the same. Therefore, no violation of the lease occurred as modified by the parties.

The appellant's third alleged violation was that the respondent overstayed her lease by one day past the July 31, 2024, the lease expiration date, to August 1, 2024. This violation was swiftly disproven at trial based on copies of text conversations between both parties presented by the respondent. The respondent moved out on the last day of the lease, July 31, 2024. The movers arrived later than scheduled. The respondent informed the appellant and asked if the walk-through could be rescheduled to the next day, to which he agreed. Copies of the text conversations were admitted into evidence. (Pa14)

The conversation showed that the appellant agreed to the new time with no objections. The court contended that he did not mention or indicate that he would charge the respondent on a prorated basis for the walk-through being held a day later. Therefore, it was not feasible for him to use this reason as part of the three alleged violations to justify forfeiting one month's rent (1T177-14 to 178-11; 189-3 to 6).

All three (3) alleged lease violations were discredited at the trial. After the testimonies of both parties and reviews of the evidence, the court determined

that no violations were committed by the respondent (1T189-22) and that the deduction of one month's rent of $3,400 from the security deposit was wrongful.

III. THE COURT CORRECTLY FOUND THAT MOST OF THE APPELLANT'S DEDUCTIONS FOR DAMAGES WERE NOT CREDIBLE AND ONLY AWARDED HIM WHAT WERE FOUND TO BE VALID DEDUCTIONS
(Raised Pa7; Pa8; 1T166 to 167; 1T176 to 177; 1T184; 1T189)

The appellant claimed there were $1,750 worth of damages caused by the respondent, including costs incurred for preparing the house for the next tenant. He testified that he only allotted $1,320 to the respondent, claiming that some damages predated her tenancy, but he did not explain the method used to arrive at his deductions. The court rightly found that his testimony was not credible, a common finding attributed to the appellant throughout the trial.

The appellant admitted that he did not utilize a checklist to document the condition of the house prior to the respondent moving in, relying instead on the previous tenant to clean the house. He also did not use a checklist during the walk-through or after the respondent moved out (1T176-13 to 21). After reviewing testimony and many photographs presented as evidence, the court

determined that most of the appellant's claims of damages either predated the respondent's tenancy or were unsupported.

At trial, the appellant alleged damages but did not mention them on the day of the walk-through. He only noted two scratches on the wall, each less than two inches long. He acknowledged that the appliances were spotless, floors washed, and walls and windows cleaned. The appellant brought up nothing major during the walk-through. (1T189-7 to 9)

The respondent submitted time-stamped photographs showing the condition of the property on move-in day in 2023 and on the final walk-through day of August 1, 2024. These photographs were accepted into evidence. The appellant omitted the respondent's photos from his brief, knowing that they would be damaging to his appeal case, and only included his staged photos, which were neither dated nor authenticated.

After the walk-through, the appellant walked the respondent to the car in the garage and thanked her for helping take care of his property. Despite this, he later issued a breakdown stating he would return only $444.06 out of the $5,100 security deposit, knowing the condition of the house on August 1, 2024, compared to a year earlier when the respondent moved in.

A major problem with the appellant's deductions was that the respondent had raised concerns about the state of the house on move-in day in 2023 (Pa7; Pa8). The residence was filthy: none of the appliances, bathrooms, or cabinets were cleaned; the washer and dryer were filled with pet hair; and the bathrooms contained human waste. The floors were dirty and covered in dust. There were many holes and nails in the walls, loose door handles, doors that would not close, torn window screens, and other issues. The respondent fixed many of these damages during the first week of moving in and before the showings to help the appellant.

The refrigerator and pantry were unclean, and the kitchen cabinets and countertops were damaged. The respondent carefully documented the condition of the house and communicated with the appellant regarding these issues. All text conversations were admitted into evidence. The appellant admitted at trial that he did not clean the house before the respondent moved in. (1T177-7)

The court found that the appellant's $1,320 claimed for damages was not credible, awarding him only $425 as valid deductions from the security deposit (1T184-7 to 8). The respondent was not responsible for any damages and, in fact, helped fix as many as she could for her own comfort and to assist with showings. The trial repeatedly noted the appellant's credibility issues. The court

concluded that most of the appellant's deductions were not credible based on his testimony and supporting documents (1T166-16 to 167-6).

IV. THE COURT FOUND THAT A NEW TENANT SIGNED A LEASE IN JULY AND MOVED IN AUGUST 2024, MAKING THE APPELLANT'S CLAIM OF RENT LOSS NOT CREDIBLE

(Raised Pa12; 1T173–1T174)

The appellant admitted during testimony that the house was rented out and a lease was signed before the respondent moved out. He was not aware that the respondent went back to the rental house in August to pick up a package and found that the new tenants were settled in. The tenant was selected from the showings. During his testimony, the appellant claimed that the incoming tenant received the keys in July and took possession in August (1T173), but he could not recall the exact move-in date. The respondent submitted evidence showing the online rental listing was removed on July 31, 2024 (1T173-13 to 14). This info was admitted into evidence. (Pa12)

The appellant's claim that the respondent was responsible for rent in August 2024 was groundless, as the respondent moved out in July and the new tenant moved-in in August 2024. He admitted he gave the keys to the new tenant when the lease was signed in July but lacked details beyond that (1T173-14 to 21).

The court appropriately determined that none of the respondent actions warranted her forfeiting one month's rent. The appellant's $3,400 deduction for August 2024 rent loss was wrongful, as the house was successfully rented and was occupied by the new tenant (1T174). The appellant misrepresented facts regarding the lease violations, house occupancy, and rental loss, with the intention of unlawfully withholding the respondent's security deposit. The court determined that his actions were not credible and wrongful.

CONCLUSION

The respondent respectfully requests that the appellate court affirm the trial court's judgment. The court properly found that there were no violations against the lease, based on the testimonies and evidence admitted in the trial. The court rightfully found that the appellant wrongfully deducted amounts that he shouldn't have deducted from the security deposit to compensate for his nonexistent rental loss, and for damages that the court found to be mostly unsubstantiated and not credible.

Respectively submitted,

Benny Omiunu

Dated: October 14, 2025

FILED, Clerk of the Appellate Division, December 18, 2025, **A-002643-24**, AMENDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO.: A-002643-24-T1

BENNY OMIUNU,

Plaintiff-Respondent

vs.

PETER LU,

Defendant-Appellant

CIVIL ATION

On appeal from

SUPERIOR COURT, LAW DIVISION
SUSSEX COUNTY

HONORABLE DAVID J. WEAVER, J.S.C.
Sat Below

BRIEF FOR APPELLANT'S RESPONSE APPELLANT PETER LU

PETER LU
APPELLANT
37 BRADFORD TERRACE
BOONTON, NEW JERSEY 07005
(201) 253-9884
Plu100@gmail.com

TABLE OF CONTENTS

Page

PRELIMINARY STATEMENT 1

PROCEDURAL HISTORY 2

STATEMENT OF FACTS 5

AUGUMENT

I. RESPONDENT MATERIALLY BREACHED THE LEASE BY REFUSING TO PERMIT SHOWINGS FOR FORTY-FOUR (44) OF THE SEVENTY-FIVE (75) REQUIRED DAYS AND BY OBSTRUCTING ACCESS DURING THE REMAINDER, THEREBY PREVENTING TIMELY RE-RENTAL. SHE THEN FALSELY CLAIMED—WITHOUT EVIDENCE—THAT THE PARTIES AGREED TO POSTPONE SHOWINGS, A CLAIM UNKNOWN TO ANY REALTOR AND UNPROVEN AT TRIAL. RESPONDENT NEVER DISCLOSED ANY ILLNESS OR REQUESTED ACCOMMODATION DURING THE TENANCY, RAISING MEDICAL EXCUSES FOR THE FIRST TIME IN HER SEPTEMBER 20, 2024 LAWSUIT AS AN AFTER-THE-FACT JUSTIFICATION; HER ONLY CONTEMPORANEOUS RATIONALE WAS A LEGALLY UNSUPPORTED BELIEF THAT THE LEASE VIOLATED NEW JERSEY LAW. AS A DIRECT RESULT OF HER BREACH, THE PROPERTY WAS NOT RE-RENTED UNTIL SEPTEMBER 1, 2024, CAUSING A $3,500 AUGUST RENT LOSS. NONETHELESS, THE TRIAL COURT CREDITED RESPONDENT'S UNSUPPORTED ASSERTIONS, DISREGARDED THE UNDISPUTED RECORD, AND AWARDED DAMAGES TO THE BREACHING PARTY, RESULTING IN A LEGALLY AND FACTUALLY ERRONEOUS $6,800 JUDGMENT AGAINST APPELLANT. 8

(Raised Below: Final Judgment: Pa1; Lease: Pa31–Pa37; Realtor witness letter: Pa30; Itemized deductions: Pa38; Texts re 45-day blackout/access: Pa39–Pa41; Oral rulings/colloquy: 1T:39–43, 1T158-178)

FILED, Clerk of the Appellate Division, December 18, 2025, **A-002643-24**, **AMENDED**

II. RESPONDENT'S FALSE "NO DAMAGE" CLAIM CONTRADICTED BY PHOTOGRAPHIC EVIDENCE, AND THAT TRIAL COURT'S DISREGARD OF UNDISPUTED EVIDENCE OF PROPERTY DAMAGE

*(*Raised Below*:* Lease—Clause 11.1: Pa33; Itemized deductions: Pa38; Photo exhibits: Pa42–Pa45; Oral ruling: 1T:178–184).

CONCLUSION 14

FILED, Clerk of the Appellate Division, December 18, 2025, **A-002643-24**, **AMENDED**

TABLE OF JUDGMENTS, ORDERS AND RULINGS

CIVIL ACTION ORDER DECISION
On February 28, 2025 Pa 1

MOTION ORDER for ORDER TO RECONSIDER JUDGEMENT
On April 15, 2025 Pa 55

TABLE OF APPENDIX

Appendix document	Appendix page number
CIVIL ACTION ORDER DECISION A bench trial on February 28, 2025	Pa 1
Complaint, filed On September 20, 2024	Pa 2
Answer: Defendant's response, filed on November 1, 2024	Pa 29
Defendant's counterclaim filed on January 7, 2025	Pa 47
Defendant's motion seeking to amend the judgment Filed March 31, 2025 with two supporting exhibits	Pa 50
Motion hearing on April 15, 2025, ORDER TO RECONSIDER-Denied by Judge Since the motion filed exceeded the deadline	Pa 55
Notice of Appeal filed on April 25, 2025 and revised on June 15, 2025	Pa 56
Civil Case Information Statement filed on April 25, 2025	Pa 59
A Notice of Motion, filed on April 25, 2025 and revised on June 15, 2025	Pa 62
Request Oral Argument filed on June 15, 2025	Pa 66

TABLE OF AUTHORITIES

Authority	Brief Page Number
Court Rules:	
NJ Model Civil Jury Charge 8.45	19
Common Law Principles	19
N.J.S.A. 46:8-6	29
N.J.S.A. 46:8-19 et seq.	29, 32
Case law:	
Donovan v. Bachstadt, 91 N.J. 434 (1982)	19
Perini Corp. v. Greate Bay Hotel & Casino, Inc., 129 N.J. 479 (1992).	19
Alston v. Thomas, 161 N.J. Super. 403 (App. Div. 1978).	29

PRELIMINARY STATEMENT

This appeal challenges the trial court's rejection of a valid $3,400 lease-based deduction for rental losses and repair costs caused by Respondent's material breaches of four commercial lease agreements. The court erred by crediting Respondent's false claim that Appellant agreed to postpone property showings and thereby consented to those breaches.

No such agreement ever existed. Neither Appellant nor any real estate agent involved in the re-rental process was aware of any agreement to postpone showings. Respondent raised this claim for the first time in her lawsuit and failed to produce any supporting evidence. Nevertheless, the court relied on this unsupported assertion to deny Appellant's contractual rights.

Despite repeated written warnings on May 1 and May 14, 2024, Respondent continued to refuse or obstruct showings throughout most of the authorized period, in clear violation of the Lease. She later asserted that illness beginning in March 2024 prevented compliance, yet she never disclosed any medical condition, requested accommodation, or sought modification of her lease obligations during the tenancy. Her medical explanation was raised only after litigation began and is unsupported by the contemporaneous record.

As a direct result of Respondent's breaches, the property could not be timely re-rented, and Appellant lost the entire month of August 2024 rent in the amount of $3,500. The trial court nonetheless denied the lease-based deduction and compounded the error by imposing a $3,400 penalty, effectively doubling Appellant's financial loss.

In addition, Respondent caused substantial property damage and failed to perform required maintenance expressly mandated by the Lease. Although Appellant submitted extensive photographic evidence and itemized deductions documenting the damage and repairs, the court improperly reduced or eliminated valid reimbursements and imposed further penalties. Respondent's pleadings and testimony reflected a pattern of false and misleading representations, including claims of oral agreements and fabricated evidence unsupported by the record.

The resulting judgment is legally and factually erroneous and should be reversed.

PROCEDURAL HISTORY

1. **Filing of Complaint**. On September 20, 2024, the plaintiff commenced this action by filing a complaint seeking a full refund of the security deposit. (pa2–pa28)

2. **Defendants' Response.** On November 1, 2024, the defendants filed their response. (pa29–pa46) The response included:

   a. A list of six commercial lease violations allegedly committed by the plaintiff and a statement that no agreements existed other than the written lease. (pa29)

   b. A letter dated on August 3, 2024 from the listing real estate agent (witness) attesting to two major lease violations by the plaintiff that resulted in the loss of one month's rent. (pa30)

   c. A copy of the executed commercial lease agreements signed off on July 13, 2024. (pa31–pa37)

   d. A letter dated on August 27, 2025 itemizing security-deposit deductions and listing violations/damages (pa38); May 14, 2024 text messages regarding the 75-day issues and defenses (pa39–pa41); and twenty-six photographs documenting property damage and subsequent repairs. (pa42–pa46)

3. **Filing of Counterclaim.** On January 7, 2025, the appellant filed a counterclaim seeking $4,720 in damages. (pa47–pa49) The counterclaim incorporated the defendants' response. (pa29–pa46)

4. **Bench Trial and Judgment.** A bench trial was held on February 28, 2025. Following oral argument, the court declined to consider the defendants' counterclaim with prejudice and entered judgment against the defendants in the amount of $8,969.97. (pa1, 1T:184-191)
5. **Post-Judgment Motion**. On March 31, 2025, the appellant moved to amend the judgment, asserting the court failed to consider the plaintiff's contractual breaches. (pa47–pa54) The motion included evidence that the plaintiff provided a false forwarding address.
6. **Hearing on Post-Judgment Motion**. On April 15, 2025, the court held a hearing and dismissed the motion as untimely, expressly advising the appellant to seek appellate relief. Notice issued April 22, 2025. (pa55)
7. **Notice of Appeal.** On April 25, 2025, the appellant filed a Notice of Appeal. A corrected version was emailed on June 15, 2025. (pa56–pa58)
8. **Civil Case Information Statement**. On April 25, 2025, the appellant filed the Civil Case Information Statement. (pa59–pa61)
9. **Notice of Motion** (Appellate). On April 25, 2025, the appellant filed a Notice of Motion. (pa62) On June 9, 2025, the Court issued a Motion Filing Notice assigning Motion No. M-004936-24. (pa63) On June 15, 2025, a Certification

in Support of Motion to File Notice of Appeal as Within Time was filed. (pa64–pa65)

10. **Request for Oral Argument**. On June 15, 2025, the appellant requested oral argument. (pa66)

11. **Transcript for Trial date on Feb 28, 2025** requested on April 16, 2025 and received on June 23, 2025 (1T:1-191)[1]

STATEMENT OF FACTS

In late April 2024, Respondent gave notice of non-renewal. On May 1, 2024, Appellant informed Respondent that the property would be listed for rent and that showings would begin seventy-five (75) days before lease expiration. Clause 22, Section 2 of the Lease required only three hours' notice for showings (Pa36). Respondent instead demanded 48–72 hours' notice. Appellant advised Respondent in writing that refusal to permit showings would constitute a material breach and could result in eviction and forfeiture of the security deposit.

On May 14, 2024, the listing agent, Chris Bruscino, scheduled the first showing for May 17. Respondent refused, declined to provide alternative dates, and used hostile language (Pa30). Appellant offered to allow Respondent to select another agent or

[1] 1T Feb 28, 2028 Trial Transcript

to conduct the showing personally, but Respondent did not respond. A second written notice reiterated the Lease requirements and warned of breach consequences (Pa39–Pa41).

Respondent asserted—without legal authority—that the Lease's showing provision violated New Jersey law (Pa39). This was her only stated reason for refusal. She did not mention any illness, hospitalization, disability, or request for accommodation to Appellant or any realtor at that time (Pa30).

On May 18, 2024, Bruscino recommended removing the listing due to Respondent's refusal to permit showings and suggested deducting the security deposit for the breach. Appellant agreed, having already issued written warnings on May 1 and May 14, 2024. The trial court nevertheless misinterpreted the witness letter and erroneously construed it as evidence of a mutual agreement between Respondent and Appellant.

On June 18 and 19, 2024—thirty-three (33) days after the authorized showing period began—another realtor attempted to schedule showings, but Respondent did not return her calls (Pa30). Respondent did not permit the first showing until June 29, 2024 (Pa13), forty-four (44) days after showings were to begin. From May 14 through June 29, Respondent refused all showing requests. During the remaining thirty-one (31) days of the showing period, she limited access to a single one-hour

window per week and denied numerous additional requests (Pa30). As a result, the property could not be effectively marketed, and Appellant lost one full month of rent for August 2024 in the amount of $3,500 (1T133).

At lease termination, Respondent failed to vacate the property in undamaged condition and delayed the final walkthrough twice (Pa29; Pa47–Pa49). When Appellant arrived on August 1, 2024, Respondent was still cleaning, and wall damage was observed, including attempts to conceal damage with mismatched paint (Pa43). Inspection revealed damage to kitchen cabinets (Pa44–Pa45), basement walls (Pa42), kitchen walls (Pa43–Pa44), and stairway walls on both floors.

That same day, Appellant requested Respondent's forwarding address multiple times to send the security-deposit refund with itemized deductions. Respondent eventually provided an address deemed invalid by the U.S. Postal Service, preventing delivery (Pa54).

Respondent also failed to perform required maintenance under Clause 11, Section 4 of the Lease, including dryer-vent cleaning and annual deck power washing (Pa33; Pa46). At trial, Respondent testified that the homeowners' association performed deck washing (1T153), which Appellant disputed (1T155). The property manager later confirmed that the HOA washes siding only, not decks.

Appellant incurred $1,650 in repair costs and sought $1,350 after crediting ordinary wear and tear. The Lease permits a $1,000 standard deduction for minor scratches and recovery of additional repair costs (Pa33). The trial court nevertheless awarded only $425 (1T178–184).

In an August 27, 2024 letter itemizing the deductions, Respondent was given an opportunity to dispute the claimed violations. She did not mention any alleged showing-postponement agreement or medical issues, demanded a full refund of the security deposit, ignored the rental-loss and damage claims, and responded, “See me in court.”

At trial, the court reviewed the replacement tenant’s lease commencing September 1, 2024 (Pa31–Pa37; 1T121), repair invoices (1T127), and damage photographs (Pa42–Pa45). Respondent submitted sixty-two photographs allegedly taken at move-in; however, only three were relevant, and two lacked date stamps despite her testimony that all photographs were time-stamped (1T19; Pa11). The court clerk confirmed that no dated photographs were on file (1T92–93).

ARGUMENT

I: RESPONDENT MATERIALLY BREACHED THE LEASE BY REFUSING TO PERMIT SHOWINGS FOR FORTY-FOUR (44) OF THE SEVENTY-FIVE (75) REQUIRED DAYS AND BY OBSTRUCTING ACCESS DURING THE REMAINDER, PREVENTING TIMELY RE-RENTAL. SHE FALSELY CLAIMED—WITHOUT

EVIDENCE—THAT THE PARTIES AGREED TO POSTPONE SHOWINGS, A CLAIM UNKNOWN TO ANY REALTOR AND UNPROVEN AT TRIAL. RESPONDENT NEVER DISCLOSED ANY ILLNESS OR REQUESTED ACCOMMODATION DURING THE TENANCY, RAISING MEDICAL EXCUSES FOR THE FIRST TIME IN HER SEPTEMBER 20, 2024 LAWSUIT AS AN AFTER-THE-FACT JUSTIFICATION; HER ONLY CONTEMPORANEOUS RATIONALE WAS A LEGALLY UNSUPPORTED BELIEF THAT THE LEASE VIOLATED NEW JERSEY LAW. AS A DIRECT RESULT OF HER BREACH, THE PROPERTY WAS NOT RE-RENTED UNTIL SEPTEMBER 1, 2024, CAUSING A $3,500 AUGUST RENT LOSS. NEVERTHELESS, THE TRIAL COURT CREDITED RESPONDENT'S UNSUPPORTED ASSERTIONS, DISREGARDED THE UNDISPUTED RECORD, AND AWARDED DAMAGES TO THE BREACHING PARTY, RESULTING IN A LEGALLY AND FACTUALLY ERRONEOUS $6,800 JUDGMENT AGAINST APPELLANT.

(Raised Below: Final Judgment: Pa1; Lease: Pa31–Pa37; Realtor witness letter: Pa30; Itemized deductions: Pa38; Texts re 45-day blackout/access: Pa39–Pa41; Oral rulings/colloquy: 1T:39–43, 1T158-178)

Respondent materially breached the Lease by refusing to permit showings for approximately forty-four (44) of the seventy-five (75) days required under the parties' agreement. In respondent's response, she further misled the court by asserting—without any evidentiary support—that the parties had agreed to 30 days postpone showings.

In her complaint, Respondent affirmatively represented to the court: "We reached a compromise: showings would begin 45 days before my lease expiration and I would

receive a minimum of 48 hours' notice before each showing" (Pa14). That assertion was entirely false and improperly influenced the trial court's ruling.

At trial, despite being repeatedly asked by the court to produce proof of such an agreement, Respondent produced none. The re-rental process necessarily involved multiple licensed real estate professionals, yet no realtor was ever informed of, or aware of, any such agreement. The undisputed record establishes that Respondent's claim was false and misleading.

During direct conversations with the listing realtor and in text exchanges with Appellant on May 1 and May 14, 2024, Respondent had multiple opportunities to disclose any medical treatment or request a temporary postponement of showings. She did neither and never mentioned any illness, limitation, or need for accommodation. At no time did Respondent inform Appellant, the listing realtor, or any other involved real estate agent of any alleged disability or medical condition that would prevent her from permitting showings or require accommodation (Pa30; Pa38–Pa41; 1T170).

In her response, Respondent claimed she had been ill and treatment since early March 2024. Yet for the entire five-month period through the end of her tenancy in July 2024, she never informed Appellant or any realtor of any illness and treatment,

nor did she request any leniency, accommodation, or modification of her Lease obligations due to nonperformance (Pa30; Pa38–Pa41). Notably, Respondent's alleged illness and treatment were raised for the first time in her lawsuit filed on September 20, 2024. This belated claim is inconsistent with the contemporaneous record and constitutes a misleading, after-the-fact justification.

Respondent's sole stated justification for denying all showings was her unilateral—and legally unsupported—belief that the Lease provision violated New Jersey law (Pa39). As a matter of common sense and customary practice, permitting a showing required no physical effort beyond orally granting entry. Respondent's post hoc claim that medical or mobility issues prevented showings—while she continued to live and work inside the home—is unsupported by the record and facially unreasonable.

During the remaining thirty-one (31) days, Respondent continued to deny numerous showing requests and imposed unreasonable restrictions that rendered showings impractical or exceedingly difficult, materially reducing the pool of prospective applicants.

The trial court reviewed the replacement lease (Defendant's Exhibit D2), which unambiguously commenced on September 1, 2024. As a direct and foreseeable

result of Respondent's breach, Appellant lost the entire month of August 2024 rent in the amount of $3,500. This one-month rental loss was also expressly confirmed in the listing agent's witness letter, notwithstanding Respondent's attempt to deny it in her response.

Despite this undisputed loss—and Respondent's complete failure of proof—the court awarded damages to the breaching party and simultaneously double-penalized the landlord, resulting in a legally and factually erroneous $6,800 judgment against Appellant.

II: RESPONDENT'S FALSE "NO DAMAGE" CLAIM CONTRADICTED BY PHOTOGRAPHIC EVIDENCE, AND THAT TRIAL COURT'S DISREGARD OF UNDISPUTED EVIDENCE OF PROPERTY DAMAGE *(*Raised Below*: Lease—Clause 11.1: Pa33; Itemized deductions: Pa38; Photo exhibits: Pa42–Pa45; Oral ruling: 1T:178–184).*

Respondent repeatedly misrepresented material facts by claiming the premises were "properly cleaned and cleared…with no damages caused by me." That claim was demonstrably false. Appellant submitted twenty-six photographs documenting extensive damage and repairs (Pa42–Pa45), which directly contradicted Respondent's assertion and improperly influenced the trial court.

Respondent's own sixty-two photographs showed only trivial issues—two door knobs with minor grease residue and one knob with grease and slight scratches, and small scratches of a stair wall in hidden place—while Appellant's photographs documented extensive door damage to more than ten kitchen cabinets and multiple walls, including large basement wall damage exceeding fifteen to twenty inches (Pa42–Pa45). This evidence flatly refuted Respondent's claim that no damage occurred.

Despite acknowledging that tenants are responsible for physical wall damage requiring repainting (1T180–1T181), the trial court improperly disregarded clear photographic proof and denied valid repair costs. The court rejected Appellant's $60 kitchen wall repair claim despite four photographs showing damage to three separate walls, and denied a $200 stairway wall repair claim despite five photographs documenting damage to all four stairway walls caused during Respondent's tenancy. Respondent submitted no credible evidence disputing these damages, and prior move-out inspections confirmed they did not preexist her tenancy.

All additional erroneous denials of repair expenses and failure of the maintenance are fully detailed in the Appellant's Brief and supporting statements and are not repeated here.

CONCLUSION

The judgment rests on factual errors, reliance on unsubstantiated assertions, and disregard of the written lease and supporting evidence.

Lost rent. The court wrongly rejected Appellant's $3,400 lease-based rental-loss deduction, crediting a non-existent oral agreement. Respondent's access restrictions (a full blackout, then severe limits) caused the vacancy loss. The court compounded the error by imposing a $3,400 penalty, doubling the harm to $6,800.

Repairs & maintenance. The court undervalued proven property damage and ignored the lease's allowance for a $1,000 standard deduction plus actual repair costs (total claimed $1,350). Awarding only $425 and adding a $925 penalty further misapplied the facts and law.

Under New Jersey contract principles and the Security Deposit Law (N.J.S.A. 46:8-19, 46:8-21.1), a breaching tenant is responsible for the landlord's actual damages (lost rent, reasonable re-letting costs, and repairs beyond ordinary wear and tear).

Respectively submitted

____

Peter Lu

Dated: December 18, 2025