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# KEY POINTS ABOUT LANDLORD-TENANT LAW & DAMAGES

## ***Damages that might be awarded to LL in summary ejectment action***

Unpaid rent, up to date of judgment

Damages for occupancy after lease is terminated.

Damages for remainder of term<sup>1</sup>

In lease for fixed period if T abandons property and stops paying rent prior to end of lease, LL has duty to mitigate by attempting to find new T, but is entitled to damages resulting from T's premature departure. Distinguish *surrender*, which involves agreement by both parties to early termination. Note also that early termination is permitted by statute, subject to some restrictions, in cases involving foreclosure, military service, and DV victims.

Late fees & administrative fees under GS 42-46 (residential leases)<sup>2</sup>

Must be in lease

LL forfeits completely if exceeds statutory maximum

May not be deducted from rent payment so as to make rent late again

Subsidized housing: based on T's share of rent

Late fees: must provide 5-day grace period

Administrative fees provision is new law: note correction on p. 170 SCL.  
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2018 legislative amendment to GS 42-46 allows LL to charge T for "out-of-pocket expenses" without violating statute.

Other fees contained in lease: often subject to rules re liquidated damages. Note particularly amount must be agreed to by both parties and reasonable.

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<sup>1</sup> Summary ejectment (typically) terminates the lease, and the right to payments pursuant to the lease, but the LL nevertheless has a claim for breach of contract damages when lease period extended into future.

<sup>2</sup> GS 42-46 is not applicable to commercial leases, which are subject to the usual rules about liquidated damages provisions.

Physical damage to rental property

Must exceed normal wear & tear

Measure is difference between FMV of property before and after damage.

Attorney fees under GS 42-46(i)(3):

Must be agreed to in lease

Amount must be (1) reasonable and (2) actually incurred

Not to exceed 15% of amount owed by T, or 15% of monthly rent if eviction based on breach other than nonpayment of rent.

## PROBLEM

1. On Jan. 1<sup>st</sup>, LL and T entered into a six-month lease, and T almost immediately began having problems paying the \$600/month rent. After 3 months of T paying late and/or making partial payments, LL filed this action for summary ejectment and money damages, including:
  - \$350 in unpaid rent as of the time T moved out
  - \$1800 for the three months remaining on the lease period
  - \$90 for six months of late fees,
  - \$50 administrative fee
  - \$75 attorney fees (LL is unrepresented, but he testifies that he paid \$75 to an attorney for consultation about representing himself in this action, and has a receipt) + \$1200 property damage. LL's testimony as to the security deposit was that he made clear in the written lease that the security deposit was non-refundable, and that it was in any event used to repair damage to the property. His testimony about the property damage was that the entire rental premises were so dirty and in such disrepair that he was forced to hire a professional cleaning crew (\$250), to repaint the entire premises (\$400), replace the 8-year-old carpet (\$800), pay a landscaping company to weed and prune in the grown-up yard (\$275), and replace the refrigerator (\$500).