Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlords' Application made September 14, 2016 and amended February 5, 2017: MNSD; MNDC; FF

Tenants' Application made January 27, 2017: MNSD; MNDC; FF

Introduction

This matter was scheduled to consider Applications for Dispute Resolution which were made by both parties. The Landlords seek compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security and pet damage deposits towards their monetary award; and to recover the cost of the filing fee from the Tenants.

The Tenants seek compensation for damage or loss under the Act, regulation or tenancy agreement; return of the security and pet damage deposits; and to recover the cost of the filing fee from the Landlords.

These Applications were convened on June 12, 2017, and adjourned to reconvene on July 6, 2017. An Interim Decision was provided on June 13, 2017, which should be read in conjunction with this Decision.

Issue(s) to be Decided

- Disposition of the security deposit and pet damage deposit.
- Is either party entitled to a monetary award in compensation for damage or loss under the Act, regulation or tenancy agreement?

Background and Evidence

Copies of two tenancy agreements between the parties were provided in evidence.

This tenancy began on September 1, 2010. The tenancy agreement was a one year lease, ending August 31, 2011. Monthly rent was $1,500.00, due on the first day of each month.

In August, 2011, the parties negotiated a new tenancy agreement, which was a month-to-month tenancy. Monthly rent was $1,700.00. The tenancy ended on August 31, 2016. The Landlords are holding a security deposit in the amount of $850.00 and a pet damage deposit in the amount of $850.00.

The rental unit is a 3 storey house which includes an unfinished basement with concrete floors. The Landlords built the house to their specifications in 2007 and lived in the house for three years before relocating to another city for family related reasons.

The Landlords had 15% of the basement for their own use. The Tenants had use of the other 85%, which they used for storage only. The main floor included a master bedroom with ensuite bathroom, a child's bedroom, small bathroom, open concept living/dining/kitchen, and a laundry/mud room. The upstairs floor consisted of three rooms (bedrooms/office) and another bathroom with a shower only.

1. Regarding the Landlords' Application:

<u>The Landlords gave the following testimony:</u>

The Landlords testified that on July 22, 2016, the Tenants gave notice that they were ending their tenancy effective August 31, 2016. The Landlords made two attempts to arrange a time for a move out inspection, but neither date was convenient to the Tenants. On September 1, 2016, the Landlords issued a Notice of Final Opportunity to Schedule a Condition Inspection and sent it to the Tenants by registered mail to the address provided by the Tenants. The Notice set the meeting time for September 10, 2016 between 9:00 a.m. and 1:00 p.m. The Tenants asked their housekeeper to act on their behalf for the Inspection. A copy of the Condition Inspection Report was provided in evidence, which includes the move-in and move-out inspections.

The Landlords testified that the Tenants did not clean the rental unit sufficiently at the end of the tenancy. For example, the Landlords submitted that the Tenants did not clean the timbers in the ceiling of the rental unit and that there was a significant amount of dust on the timbers. The Landlords stated that they cleaned the timbers when they

lived in the rental unit and that the Tenants did not return the rental unit to the condition in which they found it. The Landlords acknowledged that they have "high standards for cleanliness", but stated that they would have cleaned to that standard for the next occupants.

The Landlords stated that the Tenants, or their dog, did damage to the floors in the dining room, living room, and master bedroom, which necessitated refinishing the entire floor. The Landlords stated that the floor finisher could not refinish a small section of the floors because of the age/type/quality of wood (3/4 inch tongue and groove). This damage consisted of scratches and water damage from the dog's water dish. The Landlords submitted a letter from their insurance company confirming that this loss would not be covered by their insurance policy. The floors in the rental unit are "hard rock maple with a diamond coat finish".

The Landlords testified that four of the outside doors were damaged by the Tenants' dog and there was paint damage to the "second bedroom". They testified that the Tenants had installed an exercise bar, and a temporary plywood wall in the rental unit without the Landlord's knowledge and consent, which required removal and repair to the rental unit.

The Landlords stated that the walls were last painted 9 years before the end of the tenancy and that they did not claim for the cost of paint, but only the cost of repairing the wall was claimed so that it was "paint ready".

The Landlords stated that the Tenants also did water damage to the kitchen window sill.

The Landlords testified that the Tenants did not return the keys to the rental unit, and therefore the Landlords had to re-key all exit doors because they were concerned about security. The Tenants also left some items which the Landlords had to have removed (a wardrobe, desk, car tires and lumber).

The Landlords seek a monetary award, calculated as follows:

Cost to sand, finish and fill hardwood floors	$5,800.41
Re-key doors	$122.08
Landlord's labour (house cleaning, 78 hours @ $25.00)	$1,950.00
Landlord's labour (removal and repair, 12.5 hours @$30.00)	$375.00
Window cleaning (inside and out)	$315.00

Painting 4 exterior metal doors	$420.00
TOTAL CLAIM:	$8,982.49

The Tenants gave the following testimony:

The Tenants submitted that their housekeeper attended the condition inspection at the end of the tenancy, but did not attend as their agent. I explained the provisions of Section 38(2) of the Act to the Tenants.

The Tenants stated that over the course of the 6 year tenancy, they paid $120,000.00 in rent to the Landlords. They submitted that the Landlords allowed the Tenants to have a dog, and that "much, if not all, of the damage to the rental unit was a result of normal wear and tear when a dog is allowed". The Tenants submitted that the Landlords "built that into the rent collected". The Tenants stated that there were no discussions with the Landlord prior to signing the second tenancy agreement with respect to "wear and tear from the dog". They acknowledged that the dog had made "some scratches" to the floor, and that the damage to the bedroom floor was a result of a vertical wooden coat hanger which the Landlords had left and which had fallen over and made a gouge in the floor.

The Tenants gave oral submissions with respect to previous decisions made by arbitrators. Copies of these decisions were not provided in documentary form.

The Tenants submitted that the photographs provided by the Landlords were "close-up and out of context". They submitted that there were no general photographs of what the floors looked like from "standing height". The Tenants stated that only 222 square feet of the 1,023 square feet of floor was damaged, and that they did not believe it was fair to expect them to pay for the refinishing of the whole floor.

The Tenants stated that they did not lock their doors because the rental unit was in a "passive, rural community" and that they did not feel the need to lock up. They stated that the key was "stashed above the exterior door frame", where the Landlords had also kept it.

The Tenants submitted that they moved out of the rental unit on August 29, 2016, and that they left "garbage and a mess", but that they arranged for garbage removal and their housekeeper to clean the rental unit before August 31, 2016.

The Tenants denied that the tires that were on the property at the end of the tenancy were theirs and stated that they were present at the beginning of the tenancy.

The Tenants acknowledged that they left the furniture, an exercise bar and a temporary wall in the rental unit at the end of the tenancy. The Tenants testified that the wall was put up to "seal off the room, which was infested" and that there was no damage made to the rental unit as a result of the installation of the wall.

The Tenants had "no argument with respect to painting of the exterior doors". They also acknowledged that the kitchen window sill had been damaged by the Tenants.

The Tenants stated that the Landlords "showed up on August 30, 2016, and saw the garbage, which may have been an "aggravating factor".

The Tenants stated that the Landlords' photographs of the state of cleanliness of the rental unit at the end of the tenancy included a photograph taken "outdoors", which is "indicative of the fastidiousness of the Landlords". The Tenants questioned when the photographs were taken, and stated that they did not know if the photographs were from before or after their housekeeper cleaned the rental unit. However, after viewing a video provided by the Landlords, and dated stamped September 30, 2016, they accepted that the photographs were taken "post (their) house cleaner" with the exception of the basement.

The Tenants stated that the oven was not pulled out at the move-in condition inspection, but acknowledged that they recognized the "spice mix" under the stove as their own. The Tenants also submitted that the fridge, washer and dryer were not pulled out from the wall at the move-in inspection.

The Tenants disputed that it was their responsibility to clean the outside of the windows at the end of the tenancy. They also submitted that the timbers inside the rental unit were very high, requiring "specialty equipment, not supplied by the Landlords" in order to clean them.

2. Regarding the Tenants' Application:

<u>The Tenants gave the following testimony:</u>

The Tenants submitted that they are claiming for loss of quiet enjoyment and a devalued tenancy, for the following reasons:

- two septic backups during the tenancy;
- long term pest infestations in two separate rooms, causing “in-access to parts of the rental unit over a protracted period of time”;
- nocturnal noise in the master bedroom;
- offensive odour in the master bedroom ensuite shower, resulting in non-use of the shower; and
- a chimney fire in the wood stove.

The Tenants stated that they “did not receive the accommodation that they bargained for”.

The Tenants submitted that the male Tenant suffers from asthma and that the environment in the rental unit, in particular the air quality, caused him much suffering over the course of the tenancy.

On or about March 19, 2013, the Tenants went to stay at a “B&B” because “something [was] amiss in the house and [was] causing my breathing to shut down”. On March 22, 2013, the Tenants returned to the rental unit to “pick something up”. The male Tenant went into the rental unit “for 30 seconds” which “set [the male Tenant] back severely….like [he] hit a wall of toxicity and [his] breathing went into shock”. The Tenants stayed at the B&B until March 29, 2013, and then returned to the rental unit. A copy of the receipt for the cost of this stay was provided in evidence.

In March, 2013, as a result of a building inspection instigated by the Tenants, they discovered evidence of a septic backup in the unfinished basement (a stain on the floor surrounding a floor drain), which they initially thought may have been caused by something that had “leaked from our garbage bags”. The Tenants hired a building inspector to inspect the rental unit to test for “any issues he could identify that might have affected [the male Tenant’s] breathing”. A copy of the building inspector’s report, dated March 28, 2013, was provided in evidence. The report identifies several concerns with respect to moisture ingress; inadequate roof ventilation; sewage backup from floor drain in basement; dirty ductwork, dirty filter in HRV and an exterior vent; and odours in “cold room”.

The Tenants sent a copy of the building inspector’s report to the Landlords, via e-mail, on March 28, 2013.

On October 29, 2014, the Tenants advised the Landlords that there had been another septic backup that afternoon. On October 31, 2014, the backup was attended to by professionals. On November 1, 2014, the area in the basement was cleaned up and disinfected.

The Tenants submitted that they had been asking the Landlords to address their concerns about radon gas since October, 2011.

On December 3, 2012, the Tenants hired a radon inspector to inspect for the presence of radon gas in the basement and a first floor bedroom of the rental unit. The test ended on March 9, 2013, after an exposure period of 96 days. A copy of that report, dated March 29, 2013, was provided in evidence.

On April 2, 2013, the Tenants asked the Landlords to “bear the cost of a mould test and duct cleaning”. On April 3, 2013, the Tenants hired a mould inspector to inspect the rental unit. A copy of that report, dated April 9, 2013, was provided in evidence.

The Tenants testified that two bedrooms in the rental unit were affected by animal or bird activity in the roof, which made a lot of noise and disturbed their sleep. The Tenants described the two rooms as the East Garden and the West Driveway rooms.

The Tenants stated that the East Garden room was initially “infested” on May 29, 2012. They stated that they advised the Landlords and that the Landlords responded that it was a squirrel and was not a “big deal”. The Tenants submitted that the Landlords knew about the squirrel prior to the beginning of the tenancy, but did not disclose it to the Tenants. The Tenants stated that the Landlords told the Tenants that the problem would be addressed by the installation of soffits, which was done in July, 2014, some 26 months later.

The Tenants testified that on February 9, 2013, the Tenants discovered that a woodpecker was pecking the roof area above the West Driveway room (the master bedroom). They told the Landlords, who replied that it was annoyance, but that soffits would solve the problem. In April, 2016, the Landlords wrote to the Tenants about the “rodent issue” (rather than the woodpecker issue) and suggested that the Tenants put moth balls around the area to deter the pests. The Tenants stated that the Landlord also advised them that a “fake owl” might keep the woodpecker away. The soffits on the West Driveway room were installed on June 1, 2016. The Tenants stated that their sleep was disturbed at night because of the racket caused by the woodpecker or rodent (whichever it may be).

The Tenants testified that the shower in the ensuite bathroom off the master bedroom was unusable because of the presence of a foul odour which smelled of sewer gas and occurred when the shower was turned on. They stated that the water pressure was also inadequate. The Tenants turned the master bedroom shower into a closet.

The Tenants stated that they had been asking the Landlords to have the chimney cleaned, but that they had not had a response or even acknowledgement of that request. On April 13, 2012, the Tenants hired a chimney cleaner. A copy of that invoice was provided in evidence.

The Tenants provided a copy of their e-mail to the Landlord, dated February 20, 2013, again asking the Landlords to clean the chimney.

On February 3, 2014, the Tenants e-mailed the Landlords asking for the chimney to be professionally cleaned. A copy of that e-mail was provided in evidence.

On December 29, 2014, the Tenants experienced a chimney fire at the rental unit. They testified that the fire department was called, but by the time they arrived the fire had been reduced to “smoke and smoulder”. A copy of the fire department’s “Aggrement (sic) to Maintain a Fire Watch” was provided in evidence, which required the chimney to be cleaned by a professional chimney cleaner.

The Tenants hired a professional chimney cleaner to clean the chimney on January 7, 2015.

The Tenants gave oral submissions with respect to previous decisions made by arbitrators. Copies of these decisions were not provided in documentary form.

The Tenants seek a monetary award, based on the percentage of the floor space affected, the monthly rent, and the duration of the “loss of use and enjoyment of property”. The Tenants’ calculations are as follows:

Infestation of first bedroom (Feb 2013 – Aug 2016)	$7,310.00
Infestation of second bedroom ceiling (April 2016 – Aug 2016)	$1,360.00
Defunct master ensuite shower (Sep 2010 – Aug 2011)	$900.00
Defunct master ensuite shower (Sep 2011 – Aug 2016)	$5,100.00
Degradation of air quality in basement (Mar 2013 – Aug 2016)	$3,570.00
Bed and Breakfast (March 2013)	$1,140.00

Meals ($40.00 per diem per person for three people, March 2013)	$1,200.00
Building Inspector's account (March 2013)	$224.00
Duct cleaning (April, 2013)	$300.00
Mould inspection and report (Sep 2013)	$300.00
Loss of use of fireplace	$100.00
Return of security and pet damage deposits	$1,700.00
TOTAL	$23,204.00

The Landlords gave the following testimony:

The Landlords testified that, although they lived in another part of the country, they had an agent (TW) who lived near the Tenants and who took care of the day to day and urgent maintenance issues at the rental unit. The Landlords provided a House Maintenance Financial Record in evidence, which outlined the dates, type of maintenance, and the amounts spent with respect to the rental unit for length of the tenancy. The Landlords stated that in addition to the items shown in the Record, "routine maintenance" of the pump house and rental property was performed on the following dates:

September 23, 2010
February 21, April 16 and September 22, 2011
June 28 and October 30, 2012
April 5 and July 22, 2013
May 5, July 4, October 15 and October 31, 2014
June 5, August 1 and October 6, 2015
May 22 and July 22, 2016

The Landlords stated that they did not know why they initially told the Tenants that the "squirrel" was back because they were never aware of any squirrel feeding near the roof. They stated that they were aware of a woodpecker, who occasionally fed on bugs near the roof line, but that woodpeckers are not nocturnal birds and are protected by law. The Landlords stated that they controlled the woodpecker by placing an alternate food source away from the house and by erecting an owl replica on the roof. The Landlords said that it was in their own interest to ensure that there were no pests in the rental unit and that they "never saw any infestation". The Landlords submitted that the rental unit is located in the country in a heavily forested area. The Landlords stated that they installed soffits to deter the woodpecker in July, 2014; however, the woodpecker still came back "intermittently to feed wherever the bugs are located." The Landlords reiterated that the "woodpecker did not nor does it live in the roof". The Landlords

provided a written statement by TW, which states, “I had gone upstairs with [the male Tenant] and he pointed out some insulation on the floor below the window in the first bedroom on the left. The window was wide open and there was no screen on it. I looked up outside the window and I could see where it looked like a large bird had been after bugs in the eaves and knocked down some insulation.”

The Landlords testified that they quickly responded to the Tenants’ concerns about an “infestation in the master bedroom ceiling”. They stated that they hired a pest control person to visually check the area and install a live trap. The pest control person told the Landlords that he could not see any evidence of animal activity, but installed a live trap which gave no results. The pest control person also advised the Landlords to place “bait boxes” around the perimeter of the house, but the Tenants chose not to have the bait boxes installed because of their dog. The Landlords stated that in May, 2016, they installed permanent aluminum soffits to the master bedroom roof as a further precaution.

The Landlords stated that they built the rental unit to “high quality specifications”. They submitted that the large timbers in the interior of the house “form the structure while the wall board, insulation, pine boards, vapor barrier, and plywood sheeting form an unbroken, airtight barrier from the exterior environment.” The Landlords testified that insulation in the walls is covered with 5/8 exterior grade plywood and therefore traditional siding “is not a building requirement as the plywood is adequate on its own. The design, plans, and house structure have been approved by a structural engineer and the local building inspector.”

The Landlords disputed the Tenants’ claims for recovery of the cost of the building inspection. The Landlords stated that the Tenants hired a building inspector without consulting the Landlords and that any questions the Tenants (or their inspector) had with respect to the house could have been answered by the local building inspector. The Landlords submitted that animals or birds could not have entered into the attic space because of the way in which the roof of the house was designed.

The Landlords disputed that there was mould in the rental unit. They testified that the inspection report confirms that there was no appreciable mould found in the rental unit. The Landlords submitted that the Tenants’ own Home Inspection Report made no mention of mould in the rental unit. The Landlords stated that the male Tenant chose not to use the upstairs bedroom, and that due to the open concept of the house, “the air quality in that room would be the same as the air quality in any other room” as long as the windows remained shut. The Landlords testified that the rooms in the living area of

the rental unit have an open space between the top of the wall and the ceiling to permit airflow. The Landlords stated that the furnace and HRV are designed to heat and control the humidity inside the rental unit when the correct operation procedures are followed (for example, not leaving doors and windows open). The furnace filters all of the air in the house as it passes through the electronic filter system. The HRV system introduces fresh outside air into the house and filters it before it flows into the main furnace. The Landlords stated that the system displaces the entire volume of the air inside the house every three hours.

The Landlords submitted that they did a visual and oral orientation of the rental unit with the Tenants at the beginning of the tenancy. They stated that they left manuals for each appliance and the HVAC machines. The Landlords stated that they had regular e-mail communications with the Tenants with respect to reminders and instructions for the "various house systems" and also communicated when doing regular maintenance.

The Landlords submitted that the Radon Report shows that the main living area of the rental unit is "well below the recommended maximum", and that the basement is not designed or used for a living area.

The Landlords testified that the shower in the master bedroom ensuite was installed and inspected pursuant to the local building code. The Landlords provided a written statement from a licensed plumber who checked the shower for odours on February 10, 2017, and found that it was odourless and functioning properly. The Landlord submitted that any odour was minor and probably occurred because of "a trap issue".
The Landlords submitted that the main triggers for asthma are dust, pet dander and various types of grass or pollen. The Landlords stated that when they started cleaning the house at the end of the tenancy, there was an "excessive amount of dust that had been allowed to accumulate" and that the Tenants did not follow the Landlords' advice about keeping windows shut. They stated that the Tenants had a dog and that the house is situated in a forest, with a grassy meadow surrounding the house.

The Landlords disputed the Tenants' claims for recovery of the cost of duct cleaning because the furnace's electronic air cleaner cleaned the air in the house and therefore duct cleaning was not necessary.

The Landlords also disputed the Tenants' claims for recovery of the cost of the mould test. They stated that they told the Tenants that the HVR, constant filtering of the air, and the air-tight construction of the house meant that mould would not be present in the

house. The Landlords repeated that the report disclosed no appreciable mould in the house.

The Landlords stated that they cleaned the chimney once a year during routine visits to the rental unit. They suggested that the following may have been "variables that possibly caused the chimney fire":

- the draft was open too far, causing the fire to grow very hot, very quickly;
- the ash pan at the bottom of the stove may have been ajar causing the stove to "over-fire";
- the cold night-time temperatures may have caused creosote to loosen and fall down the chimney. If the stove is too hot or the draft is open too much, the creosote will ignite, causing a crackling noise. Dousing the fire with water and closing the door and the draft lever extinguishes the fire quickly; and
- the Tenants should use smaller and more easily controlled fires during the winter months.

Analysis

Both parties were articulate, thorough, and well prepared for the Hearing. I have considered almost seven hours of oral testimony and submissions, the electronic evidence that I was able to access, and almost 400 pages of documentary evidence. Due to the volume of the evidence presented, I have not referred specifically to all of the evidence in this Decision. Rather, I have set out the parties' basic submissions and the issues they identified as most important to them. Much of the oral testimony was repetitive and was set out comprehensively in the parties' documentary evidence.

I note that the Tenants did not make oral submissions with respect to their issues surrounding "security of tenure"; however, I also note that the Tenants signed a tenancy agreement which was on a month-to-month basis. In addition, I find that the amount of rent paid over the course of the tenancy was a term of the tenancy agreement and therefore irrelevant to the Tenants' claim.

I also note that, with respect to the previous decisions referred to orally by the Tenants, Section 64(2) of the Act provides:

> (2) The director must make each decision or order on the merits of the case as disclosed by the evidence admitted and is not bound to follow other decisions under this Part.

The Landlords provided 189 pages of documentary evidence, and electronic evidence, which included (but was not limited to): copies of invoices; a detailed summary of the cleaning and repairs undertaken by the Landlords; witness statements; written submissions; a “House Maintenance Financial Record”; copies of e-mails between the parties; and dozens of photographs.

The Tenants provided an Affidavit containing 196 pages of documentary evidence, including (but not limited to): correspondence and documents pertaining to security of tenure; termination of the tenancy; and loss of use and enjoyment of the rental unit due to: degradation of indoor air quality; pest infestation; and lack of chimney maintenance.

It is the responsibility of each party to provide sufficient evidence to prove their claim, on the balance of probabilities.

Section 7 of the Act provides:

> **7** (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
>
> (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 67 of the Act provides:

> **67** Without limiting the general authority in section 62 (3) *[director's authority respecting dispute resolution proceedings]*, if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

1. Regarding the Landlords’ Application:

I find that the Landlords complied with Part 3 of the regulation with respect to their obligation to arrange for a date for the inspection to take place.

Section 38(4) of the Act provides that a landlord may retain an amount from a security deposit or a pet damage deposit if, at the end of a tenancy, the tenant (or the tenant’s agent) agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant. I find that the Tenants’ housekeeper acted as agent with respect to the Condition Inspection. The Tenants’ housekeeper signed the Condition Inspection

Report, agreeing that the Landlords could retain the security deposit and pet damage deposit towards damage to the rental unit for which the Tenants were responsible. She also agreed that the Condition Inspection Report fairly represented the condition of the rental unit at the end of the tenancy.

The Condition Inspection Report provides that, with the exception of some "minor damage behind the master bedroom door, the rental unit was in good condition at the beginning of the tenancy. It also discloses that 2 keys were provided at the beginning of the tenancy, but both were not returned at the end of the tenancy.

The Condition Inspection Report also discloses that:

- walls in the rental unit were damaged and scratched;
- windows were dirty;
- kitchen cabinets and doors, the stove and oven and dishwasher were dirty;
- the fireplace was dirty;
- the patio/balcony doors were dirty; and
- floors in the dining room, living room and master bedroom were damaged.

In dispute resolution proceedings, a Condition Inspection Report completed in accordance with Part 3 of the regulation is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary. The Tenants' housekeeper/agent acknowledged that the rental unit was not reasonably clean at the end of the tenancy.

Section 37 of the Act requires a tenant to leave the rental unit reasonably clean and undamaged, save for reasonable wear and tear, at the end of a tenancy. I do not accept the Tenants' submissions that the damage to the floors of the rental unit was a result of normal wear and tear when a dog is allowed in the rental unit. A pet damage deposit is limited under the Act to the equivalent of ½ a month's rent, and is held as security for damages, over and above normal wear and tear, caused by the pet during the tenancy. It is not meant to be construed as the maximum amount claimable by the Landlord for damages caused by a pet. I do not find the damage to the floors to be "normal wear and tear" when a dog is allowed in the rental unit.

However, I also find that the Landlords had higher standards of cleanliness than what the Act contemplates as "reasonable" (for example, vacuuming and washing the timbers in the living areas of the house and vacuuming the ceiling in the laundry room and basement). I find it probable that the Landlords deep-cleaned the rental unit to a degree that is not required under Section 37 of the Act.

Further to the provisions of Section 67 of the Act, with respect to their claim for cleaning the rental unit and after referring to the "cleaning schedule" provided in evidence, I find that the Landlords have established a monetary award calculated as follows:

Date	Number of hours @$25.00	Total
September 30, 2016	5 hours	$125.00
October 1, 2016	3 hours	$75.00
October 2, 2016	1 hour	$25.00
October 3, 2016	1 hour	$25.00
October 4, 2016	1 hour	$25.00
October 5, 2016	2 hours	$50.00
October 6, 2016	3 hours	$75.00
(Floors redone)		
November 16, 2016	2 hours	$50.00
November 17, 2016	1 hour	$25.00
November 18, 2016	1 hour	$25.00
November 19, 2016	1 hour	$25.00
November 21, 22, 23, 2016	0	
November 25, 2016	.5 hour	$12.50
November 25, 26, 28, 2016	0	
TOTAL for cleaning	21.5 hours	**$537.50**

Regarding the Landlords' invoice for disposing of items and miscellaneous repair work, I find that the Landlords did not provide sufficient evidence with respect to their claim for replacing weather stripping on 4 exterior doors. However, the Tenants acknowledged leaving an exercise bar, temporary wall and furniture at the rental unit. I accept the Landlords' evidence that repairs were required after removal of the exercise bar and temporary wall. The Landlords have claimed $30.00 per hour for their labour with respect to these items, but claimed $25.00 per hour for their cleaning efforts. I allow this portion of the Landlords' claim at the hourly rate of $25.00, for 10.5 hours, in the total amount of **$262.50**.

The Tenants did not dispute the Landlords' claim with respect to painting 4 exterior doors. This portion of the Landlords' claim is granted.

Based on the Condition Inspection Report, I find that the Tenants did not return the keys, contrary to Section 37 of the Act. I allow that portion of the Landlords' claim.

Residential Tenancy Policy Guideline 1 requires a tenant to clean the inside of windows during and at the end of the tenancy. It also requires a landlord to clean outside

windows at reasonable intervals. Therefore, I allow the Landlord's claim for the cost of cleaning the windows at half the amount claimed.

Residential Tenancy Policy Guideline 40 provides the useful life of building materials. Hardwood floors have a useful life of 20 years. I accept the Landlords' claim with respect to repairs to the floors; however, I prorate their award as the floors in the rental unit were 9 years old.

Cost to sand, finish and fill hardwood floors	$2,610.00
Re-key doors	$122.08
Landlord's labour (house cleaning, 21.5 hours @ $25.00)	$537.50
Landlord's labour (removal and repair, 11.5 hours @$25.00)	$262.50
Window cleaning (inside only)	$157.50
Painting 4 exterior metal doors	$420.00
TOTAL:	$4,109.58

The Landlords' Application had merit and I find that they are entitled to recover the cost of the filing fee from the Tenants.

I set off the deposits against the Landlords' monetary award, leaving a balance calculated as follows:

Landlords' award	$4,109.58
Recovery of filing fee	$100.00
Less set-off of deposits	<$1,700.00>
TOTAL	**$2,509.58**

2. Regarding the Tenants' Application:

Disposition of the security deposit and pet damage deposit have been decided in the Landlords' claim. This portion of the Tenants' claim is dismissed.

I find that the Tenants did not provide sufficient evidence that the air quality in the rental unit caused the male Tenant to have breathing difficulties, or that the male Tenant suffered from asthma. For example, no doctor's reports were provided in evidence to support this claim. In addition, I find that, although the Tenants alerted the Landlords to their concerns about air quality, the mould report and the radon report did not support their submission that these contaminants were present in sufficient amounts to cause the male Tenant's breathing problems. I find it possible that these problems may have been caused by other issues beyond the control of the Landlords (for example: pet

dander; dust or pollen allergies). Therefore, the Tenants' claims with respect to degradation of air quality, the cost of the B&B and meals, the cost of duct cleaning, and the cost of the reports regarding the building inspection, radon gas and mould are dismissed.

I find that the Tenants provided insufficient evidence that the shower in the master bedroom was unusable due to odour or insufficient water pressure. There was no mention in the Tenants' building inspection report with respect to insufficient water pressure or odor in the master ensuite. The Landlords provided written statements from a plumber and overnight visitors who used the shower in the master ensuite, which confirm that the shower was odourless and functioning properly. This portion of the Tenants' claim is dismissed.

The Tenants alerted the Landlords in February, 2013, that bird or animal activity in the rental unit caused them loss of quiet enjoyment. The Landlords replied in March, 2013, questioning whether a "fake owl" would keep the woodpecker away, and stating that soffits "should address this long term". In April, 2016, the Landlords confirmed that the soffits would be installed in "the next 2 – 3 weeks". On June 1, 2016, the Landlords advised that permanent aluminum soffits were installed. I find that the Landlords did not install the soffits within a reasonable amount of time, but it appears that the soffits did not address the problem. The Tenants e-mailed the Landlords again on June 5, 2016, stating that the "nocturnal rodent" is "still in the roof and disrupting our sleep". The Landlords responded that they "did everything in their power to resolve the noise issue" and suggested that the problem might be bats, which are nocturnal. The Landlords stated that they would contact a "pest fellow" for his input. On June 10, 2016, the Landlords e-mailed the Tenants expressing their disappointment that the Tenants did not want the bait boxes put out. The Tenants replied that they "will return them and/or compensate" the Landlords for the cost of the bait boxes.

The Tenants seek compensation dating back to 2013. The Tenants did not bring an Application for Dispute Resolution until January, 2017. The Tenants chose not to use the bait boxes provided by the Landlords. For these two reasons, I find that the Tenants did not comply with Section 7(2) of the Act.

Furthermore, the Tenants were aware when they entered into the tenancy agreement that the rental unit is situated in a wooded rural area and I find that animals and birds could reasonably be expected to live in the area.

The Tenants' claim with respect to infestation is also dismissed.

The Tenants provided copies of invoices for their costs incurred with respect to chimney cleaning; however, they did not claim those costs in their Application. Instead, they claimed for "loss of use of the fire place" in the amount of $100.00. I find that the Tenants provided insufficient evidence that they suffered a loss of use of the fire place. The Tenants provided copies of e-mail correspondence asking the Landlords to have the chimney cleaned. The Landlords responded to the Tenants' emails, advising that the chimney was cleaned yearly, and confirming the dates that the cleaning was done or was due to be done. Residential Tenancy Policy Guideline 1 requires a landlord to cleaning and maintaining fireplace chimneys "at appropriate intervals". I find that annual cleaning of the chimney is appropriate. This portion of the Tenants' application is dismissed.

The Tenants have not been successful in their Application and I find that they are not entitled to recover the cost of the filing fee from the Landlords.

Conclusion

The Landlords are hereby provided with a Monetary Order in the amount of **$2,509.56** for service upon the Tenants. This Order may be enforced in the Provincial Court of British Columbia (Small Claims Division).

The Tenants' Application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 31, 2017

Residential Tenancy Branch