Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications. The landlords applied for a Monetary Order for damage to the rental unit or property; and, authorization to retain the tenants' security deposit and pet damage deposit. The tenants applied for return of double the security deposit and pet damage deposit; and, compensation for loss of quiet enjoyment. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

The hearing was held over four dates. Interim Decisions were issued after the first, second and third hearing dates and should be read in conjunction with this decision.

I find it important to note that during the hearing, the landlords expressed confusion over which of their packages were admitted and which were rejected on more than one occasion despite my repeated efforts to explain which evidence was excluded and the reasons for doing so. Accordingly, I find it appropriate to explain again for the landlords' understanding. I accepted the landlords' hearing packages and evidence that were delivered to the Residential Tenancy Branch and the tenants in March 2017. I excluded the package the landlords delivered to the Residential Tenancy Branch and the tenants on July 27 and 28, 2017 for the reasons provided in the first Interim Decision. Portions of the package delivered to the Residential Tenancy Branch and the tenants in October 2018 have been admitted for reasons provided in the first Interim Decision: namely the evidence that is in response to the tenants' monetary claims against the landlords.

It is also important to note that I was provided a significant amount of oral and documentary submissions and evidence from both parties during the many hours this proceeding was underway. While I have considered all of the evidence that I determined to be admissible, with a view to brevity in writing this decision, I have only summarized the parties' respective positions and referenced the most relevant of evidence.

Issue(s) to be Decided

1. Have the landlords established an entitlement to compensation from the tenants for the amounts claimed?
2. Have the tenants established an entitlement to compensation from the landlords for the amounts claimed?
3. Disposition of the security deposit and/or pet damage deposit.

Background and Evidence

The landlords and the three co-tenants executed a written tenancy agreement for a one-year fixed term tenancy set to commence on November 1, 2015. Upon expiry of the fixed term the tenancy continued on a month to month basis. One of the co-tenants, MR, had been a tenant at the property since 2013 under a previous tenancy agreement. The tenants paid and the landlords continue to hold a security deposit and a pet damage deposit totalling $1,775.00. The tenants were required to pay rent of $2,100.00 on the first day of every month. Rent included hydro, water and garbage disposal.

The rental unit is one of two living accommodations located on the property. The landlords' son, daughter-in-law and their child resided in the other living unit adjacent to the rental unit. A vehicle towing business and a tire business were also operated on the property by the landlords' son.

The tenancy ended on February 28, 2017 pursuant to a *2 Month Notice to End Tenancy for Landlord's Use of Property*. The tenants filed to dispute the 2 Month Notice and a hearing was held on January 30, 2017 (file number referenced on cover page of this decision). During that proceeding the tenant stated that the tenants decided to accept the end of tenancy based on the 2 Month Notice and withdrew the request to cancel the 2 Month Notice. The Arbitrator also stated in the decision that the tenant was entitled to withhold rent for the month of February 2017 based on the compensation tenants are entitled to receive for receiving a 2 Month Notice. The tenants confirmed during the hearing before me that they withheld rent for the month of February 2017 in satisfaction of the compensation payable to them under section 51(1) of the Act.

Condition Inspection reports

A move-in inspection report dated November 1, 2015 was prepared and was signed by all three co-tenants although the tenants were of the position that the move-in inspection report was merely a "recycled" report from the previous tenancy.

The parties inspected the rental unit at the end of the tenancy; however, the parties were in dispute as to completion of the move-out inspection report while the tenants were present. Below, I have summarized the parties' positions with respect to the move-out inspection report.

The landlord testified that all three tenants participated in the move-out inspection on February 28, 2017 and a carbon copy of the inspection report was given to one of the tenant on that date, although the landlord could not recall which tenant was given a copy of the report.

The tenants submitted that a move-out inspection report was prepared on February 28, 2017 and then took a picture of the report they signed to ensure it would not be altered. The tenants stated that they were not provided a copy of the inspection report on February 28, 2017 as alleged by the landlord. Rather, the tenants stated that they did not receive a copy of the move-out inspection report until they received the landlords' evidence package for this proceeding. There was also an "Inspection Checklist" that was prepared in addition to the condition inspection report. The tenants submitted that the move-out inspection report and the Inspection Checklist were altered by the landlords after the inspection took place. The tenants pointed to the inspection report and the inspection checklist that was provided as evidence by the landlords in comparison to the inspection report presented as evidence by the tenants. The tenants pointed out that the landlord's copy includes a number of areas that are "whited out" with different worded written over other words, and additional comments were added such as "they destroyed our home". I noted that the landlords provided me with a copy of an Inspection Checklist that has several areas with "white out" and use of two different coloured pens: blue and black".

The landlord testified that the landlords' copy of the inspection report was not altered and the landlords could not explain the discrepancy between the two reports described above except to speculate that the tenants must have taken a picture of the move-out inspection report during the inspection but before it was completed; or, the tenants committed forgery even though the landlord acknowledged that it is her handwriting that appears on the documents is hers.

Both parties had provided photographs of the rental unit at the end of the tenancy.

The landlords stated they had a letter written by their son-in-law to describe the events that transpired and the condition of the rental unit on February 28, 2017. The landlord's son-in-law appeared at the first hearing to confirm that he authored the letter. The

tenants did not doubt that the landlords' son-in-law authored the letter and did not have any questions for the landlords' son-in-law. I note that there was no letter from the landlords' son-in-law in the evidence package that the landlords had submitted in March 2017 and admitted into evidence. I note that there is a letter written on July 23, 2017 by the landlords' son-in-law that was part of the landlords' evidence package that had been served in late July 2017 and excluded from consideration as explained previously in this decision. Accordingly, the landlords' son-in-law's letter was not considered and the landlords did not call their son-in-law to testify at any other time.

The tenants had also provided letters describing the cleaning efforts at the end of the tenancy. Upon questioning by the landlords, the tenant MR acknowledged that he wrote the letters, but asserted that they were signed by the persons who were cleaning the rental unit and witnessed the condition of the rental unit at the end of the tenancy. The tenants submitted that they could produce the persons who wrote letters in support of the tenant's position if necessary. The persons who purportedly signed the tenants' letters were not called to testify.

Landlords' claims

Below I have summarized the landlords' claims against the tenants and the tenants' responses.

1. Cleaning -- $761.25

The landlords produced a quote from a cleaning company obtained via email on March 8, 2017. The email states: "Based on your information, a team of two usually needs about 5 hours for your size home on a move-out clean. Cost wise, you would looking at around $725 + GST." The landlord testified that she had described the cleaning needed in the rental unit to the cleaning company which resulted in the quote provided. There was no written record of the cleaning needs the landlord described to the cleaning company.

The landlord testified that they had the cleaning performed by the same company that provided the above described quote. I noted that landlords did not produce the invoice or receipt in the evidence package submitted. The landlord testified that the cleaning company came multiple times to the property after the tenancy ended.

The landlord testified that the rental unit as needing a lot of cleaning. The landlord described the walls as being slimy and smoky. The windows and bathroom were mouldy, the stove needed to be cleaned again to remove a chemical residue, and the

floors washed. The landlord pointed to the move-out inspection report, the letter written by their son-in-law, and their photographs in support of their position.

The tenants stated that they left the rental unit clean and they had 5 – 6 people helping them clean on February 28, 2017. The tenants pointed to the written statements signed by these people and the numerous photographs they took on February 28, 2017.

2. Carpet removal and flooring replacement -- $4,676.00 + $40.44

The landlords submitted that the carpeting in the small and medium sized bedrooms were damaged by pet urine and feces and mould. The landlords stated the tenants had two dogs and two cats which urinated and defecated in the bedrooms. The landlords submitted that the other bedroom did not have adequate heat and ventilation because the tenants closed the door to this room and turned the heat off, which resulted in mould forming. The landlord submitted that the sunroom had indoor/outdoor carpeting that was left muddy despite the tenant's efforts to clean the mud from the carpet. The landlords' stated that the mud residue was not apparent until after the carpets had dried and the landlords pulled the carpeting back. The landlord testified that they tried cleaning the carpeting with a home carpet cleaning machine but the carpeting did not come clean and the odour was not removed. The landlords' testified that the carpeting was new as of March 2012 although they also stated it was new in 2010 at other times.

The landlords produced a quote dated March 8, 2017 for new carpet and underlay in the two bedrooms and sunroom in the total amount of $4,676.00 plus taxes. This estimate was broken down as being: $507.00 for the small bedroom; $1,011.40 for the medium bedroom; and, $3,156.00 for the sunroom. The landlords requested compensation for new carpeting in these rooms in the amount of $4,676.00 plus taxes based on this estimate. The landlords also provided a receipt for the purchase of supplies such as face masks, blades and wire to remove the old carpeting and requested recovery of $40.44 for these costs.

I noted that I had been provided an estimate only for the carpet replacement, and that the estimate did not have any indication of the style or quality of carpeting on which the estimate was based. In other words, it appears the estimate did not take into account that the bedrooms had ordinary carpeting with underlay; whereas, the sunroom had indoor/outdoor carpeting. I enquired as to whether this work had been completed. The landlords acknowledged that instead of installing carpeting based on that estimate, the

landlords proceeded to have “Pergo” flooring installed in the bedrooms and new indoor/outdoor carpeting in the sunroom. The landlord testified that they paid floor installers $1,000.00 in cash to install the new flooring and $2,999.99 to purchase the “Pergo” flooring and the new indoor/outdoor carpeting.

The tenants were of the position the carpeting was likely new in 2010, not 2012. In response, the landlords confirmed the carpeting was new in 2010.

The tenants stated they had two outdoor cats and two well behaved dogs. The tenants stated there were no stains visible on the upside of the carpeting as the tenants had shampooed the carpeting. The tenants pointed out that the landlords had already pulled up the bedroom carpeting when they came for the move out inspection and that although there were stains visible underneath the carpeting there were previous tenants and the carpets were not pulled up for the move-in inspection. Also, the stains could be the result of something as innocent as spilled water. The tenants submitted that they did not use the smaller bedroom and any damage was from a previous tenancy.

The tenants stated they shampooed the sunroom carpeting three times. The tenants acknowledged that there had been mud on the carpets because the sun room was their main entrance and the yard was very muddy. The tenants described the sunroom carpeting as being thin, approximately two millimeters thick, that was glued to the floor without any underlay and a vibrant “blue” colour.

The tenants were of the position the landlords replaced the carpeting as they were renovating the house to sell it and the landlords are failing to recognize the years of use. The tenants were of the position that the carpeting did not require replacement due to their actions or neglect.

The landlords stated the previous tenants did not have pets. The landlords’ confirmed that after the tenancy ended they fixed up the property and listed it for sale.

3. Broken fridge part -- $134.39

The landlords’ submitted that there was a broken plastic part on the fridge and they had to purchase a new part at a cost of $134.39. The landlords suspect that the part broke when someone tried forcing the door closed. The landlords stated the fridge was new in 2010.

The tenants submitted that the fridge part was plastic and endured more than six years of use. The tenants acknowledged that when the part broke they did not inform the

landlords about it since the fridge still worked. The tenants attribute the broken part to wear and tear.

4. Bathroom floor replacement -- $32.48 + $150.00

The landlords replaced the vinyl flooring in the bathroom because it was mouldy underneath. The landlords produced a receipt for the purchase of sheet vinyl in the amount of $32.48. The landlords also produced a quote for installation of bathroom flooring in the amount of $150.00; however, there was no receipt as the landlords paid the floor installer in cash.

The landlords stated that water got under the vinyl floor because the plumbing was leaking behind the shower wall. The landlords submitted that the leak was the result of the tenants hanging a heavy shower caddy on the shower head and that the landlords had fixed this issue a couple of time and told the tenants to stop using the shower caddy.

The tenants agreed that the bathroom was moist and mouldy but they attributed that to the lack of an exhaust fan in the only bathroom in the house that had a shower and had a lot of use. The tenants did not see the flooring as being in poor condition during the tenancy as there was no water on the floor. The tenants doubted that water leaked from the shower head plumbing or that it was their fault for any leak. The tenants stated that in 2015 the landlord told the tenants to stop using a shower caddy and they did. The tenants suspect that the water leak was from the drain and pointed to photographs of the ceiling in the living room where there is evidence of water leaks in the past.

In response, the landlord pointed out that there was an opening window in the bathroom to allow moisture to escape. The landlords remained of the position that the water was leaking from the plumbing for the shower head and view the tenants as being negligent since they used a shower caddy and did not report the signs of a leak to the landlords.

The tenants pointed out that if the water was leaking from behind the shower head in the wall that they would not have seen it.

Both parties provided photographs of the subject bathroom, before any repairs or renovations were made. Both parties provided photographs of the ceiling in the living room where there are signs of a previous patch under the bathroom and mould where the ceiling and wall meet at the end of the tenancy.

5. Photocopying and paperwork -- $119.10

The landlords seek recovery of costs to prepare paperwork to serve the tenants for this proceeding. Such costs are not recoverable under the Act. Rather, the Act only provides for recovery of the cost of the filing fee paid for an Application for Dispute Resolution. Accordingly, I dismissed this claim summarily.

6. Painting master bedroom -- $11.30 + $290.00

The landlords seek to recover the cost to purchase paint for the master bedroom and for the labour to do the painting. The landlords provided a receipt for the purchase of paint. The landlords provided a quote from a contractor to paint the master bedroom for $290.00 plus tax; however, the landlord stated that the painting was actually done by painters who were paid in cash.

The landlords assert that the tenants hung a TV wall mount on the wall and there were large wall anchors in another wall.

The tenants submitted that a TV wall mount was installed by the previous tenants and other holes were created by previous occupants of the home. The tenants pointed out that in the landlord's photographs taken from years prior there are things hung on the walls. The walls were of the positon that the walls were in need of repainting due to wear and tear over years of use and being "purple".

The landlords' pointed out that there was no damage noted on the move-in inspection report and the previous tenants had a TV on a table, not the wall. The landlords were of the view the walls were damaged beyond wear and tear.

I heard that the property had been tenanted since 2011 or 2012. The landlords stated that the walls were last painted in 2012.

7. Paint living room and ceiling -- $450.00 + tax

The landlords seek to recover the cost of repainting the living room. The landlords produced a quote for repainting the living room and ceiling for $450.00 + tax; however, the painting was done by painters the landlords paid in cash.

The landlords were of the position the walls in the living room were damaged beyond wear and tear.

The tenants were of the position the living rooms walls had pre-existing damage and were showing signs of wear and tear over the years of use.

8. Missing furniture and fixtures -- $150.00 + $50.00 + $100.00 + $20.00

The landlords submitted that at the end of the tenancy a mirror; a wicker table, a couch cushion, blinds, curtains and curtain rods were missing from the rental unit. The landlords placed a value on these items as follows: $150.00 for the mirror; $50.00 for the table; $100.00 for the window coverings; and, $20.00 for the couch cushion. I noted that there were no receipts or other documentation that would establish the value of these items. The landlord explained that she collects antiques and her experience is what she relied upon in determine the value of these items.

The tenants stated they rented an unfurnished rental unit and pointed to the tenancy agreement to demonstrate that. Although, the tenants did acknowledge that some furniture was left in the sunroom by the landlords, including a wicker furniture set.

The landlord explained that furniture was left in the rental unit for the previous tenants since the previous tenants liked the landlords' furnishings and that the furnishings remained in the unit when the subject tenancy started. The landlords pointed out that the furniture left for the tenants' use was listed on the move-in inspection report.

The tenants stated that they never saw a mirror in the rental unit and did not take one from the unit. The tenants stated that the wicker table and couch were subpar wicker furniture left behind by the landlords for the previous tenants. The tenants did not deny that a couch cushion was missing but were of the position they did not rent a furnished unit and the value of the furniture is overstated by the landlords.

The landlord was of a different view as to the quality and value of the furnishings, claiming these were good quality antiques that cannot be replaced. The landlord stated that the wicker couch was disposed of after the tenancy ended.

As for the blinds and curtains, the tenants stated there were brackets for curtain rods but that the curtain rods, blinds and curtains the landlords claim are missing where not there at the start of the tenancy. Rather, the tenants purchased curtains for the bedrooms and bathroom took them with them when they moved out.

In summary, the landlords were of the position the tenants left the unit unclean, damaged and took items belonging to the landlords. Whereas, the tenants were of the position the unit was left clean and undamaged except for wear and tear, pre-existing damage or damage for which they are not responsible. The tenant also claim that the landlords are motivated to fabricate a claim against them in retaliation for receiving a free month's rent at the end of the tenancy. The tenants submitted the landlords' are not credible as evidenced by altered documents and frequently changing positions.

The landlords were of the position that the landlords were too nice to the tenants by evicting them with a 2 Month Notice but deny fabricating a claim in retaliation. The landlords were of the position that the tenants are fraudsters and that the landlords should be found credible because they are seniors, bonded business persons, and "not like that".

Tenants' application

Below I have summarized the tenants' claims against the landlords and the landlords' responses.

1. Return of double the security deposit and pet damage deposit -- $3,550.00

The tenants seek return of double the security deposit and pet damage deposit on the basis the landlords have retained the deposits without reason.

The tenants submitted that they gave the landlord a forwarding address on the day of the move-out inspection, February 28, 2017 and again in a text message sent on March 7, 2017.

The landlords submitted that the tenants gave them the female tenant's business card with a mailing address on February 28, 2017 but the landlord lost it so the landlord asked for it again and received it in the text message dated March 7, 2017.

I noted that the landlords had made a claim against the deposits by way of their Application for Dispute Resolution that was originally filed on March 10, 2017 and corrections made on March 15, 2017 and that this was within the time limit for making a claim against a deposit.

The tenants were of the position that the landlords' claims are retaliatory and without merit. The tenants were of the position the landlords have fabricated the claims against them in an effort to recover the rent the tenants did not have to pay for February 2017;

and, an attempt to have the tenants pay for the landlords' renovations done in preparation for selling the property.

The landlords were of the position the claims against the tenants and their deposits are not retaliatory and that the tenants were responsible for causing damage to the property. The landlords acknowledged they did not realize they had to compensate the tenants when they issued the 2 Month Notice to End Tenancy for Landlord's Use of Property to the tenants but that they ultimately accepted that to be the case even though they "should have been nasty" and evicted the tenants another way.

2. Loss of quiet enjoyment -- $6,300.00

The tenants seek compensation equivalent to the rent payable for three months, or $6,300.00 for a significant loss of quiet enjoyment of the property for the last three months of their tenancy: December 2016 -- February 2017.

The tenants submitted that the last six months of their tenancy were disturbing and the tenants notified the landlords of this via text message on November 24, 2017. The tenants submitted that after notifying the landlords of the situation, it deteriorated even more so and instead of the landlords taking action to correct the offending behaviour the landlords served them with the 2 Month Notice to End Tenancy.

The tenants described the property as being akin to living in a junk yard and next door to a drug dealer. The tenants described how the property was filling up with hundreds of tires; junk vehicles and other scrap metal and junk. The landlords' son was dealing drugs and stolen goods from the property and associates of his were very "sketchy". The tenants described how there were thefts from the property; the police were called when one of the landlords' son's business associates went ballistic and started making threats; the tenants would find people sitting on the entry stairs to the rental unit; there was frequent "partying" and yelling on the property; junk was burned on the property; and, people were frequently squealing tires, or doing "burn-outs", as they left the property.

The tenants described how they felt stressed and unease while in their home given the frequent noise disturbances, sketchy people hanging around the property and on their stairs, and worrying about theft from the property, including their possessions or vehicles.

The tenants acknowledge that when their tenancy started there was an existing tire shop and towing business but that they were decently run at that time.

The tenants pointed to the message that was sent to the landlord on November 24, 2016 which was sent shortly after a post on social media where there is reference to the landlords' son holding drugs, including heroin, for someone and towing their vehicle. The landlord had seen the social media post as she had also posted two comments on the post.

The tenant's text message to the landlord on November 24, 2016 states, in part, with names omitted for privacy reasons:

> Hi [landlord], I just saw [landlords' son]'s post and your comments. I feel compelled to say, try living next door to this shit…I thought it would pass as a temporary busy time but it hasn't…now all of [landlords' son]'s "workers" being here every day and night, stuff has been happening here, theft, sketchy people coming around 24 hrs a day, our parking lot and backyard invaded with garbage and people's vehicles, things going missing and a constant unrest…[landlord's son] keeps telling everyone we are his tenants, which ends up in us having to tell random people to get the fuck off our front stairs while they say we are just waiting on [landlord's son], to tell people no they can't hot tub, it's our house…We are not wanting this bullshit around our side of the property…I ask you to please not tell [landlords' son] I said this as it will only result in more conflict. I just want you to be aware of what's going on for the last 6 to 8 months and that we are all unhappy with it…Things went from bad to crazy around here…I must insist on not telling [landlords' son] I wrote you this, it will ruin this household's fragile enough environment. We all just want things to settle down and get better, all 3 of us here feel worried for our house, things, and vehicles…. All of us have expressed how we feel stressed, and that the purpose of being home to unwind and relax isn't available lately because of how things have been.

The tenants also provided several pages of excerpts from the landlords' son's social media account, including the following posts:

- On November 22, 2016 the landlord's son describes holding marijuana and heroin for someone that he towed their car home for them and returned their drugs back to them;
- On November 22, 2016 the landlord comments on the post, indicating such comments should not be posted and that her son "should have known better"
- On January 12 and 14, 2017 the landlords' son posts about a break in at the tire shop on the property;

- On January 13, 2017 and onward are posts on the landlords' son's social media account about drug dealing, drug use, lying, stealing and beating up somebody who stole from the property;
- On January 31, 2017 is a picture of "cheap drugs" spray painted on the street with an arrow pointing to the property; and,
- On January 31, 2017 and February 1, 2017 are references to doing "burn-outs".

The tenants provided photographs of piles of tire; junk vehicles, scrap metal, a full dumpster; and, rubber marks from the "burn-outs" leaving the driveway of the property.

The landlord acknowledged receiving the tenant's message of November 24, 2016 but pointed out that there were no complaints prior to that. The landlord stated that upon receiving the message she contacted her son and advised him of the message she had received from the tenant. According to the landlord, her son explained that the people and noise was to be expected from running a tire business on the property and that sometimes there are "bad people". According to the landlord, she telephoned the tenant after receiving his message and advised him that the business attracts bad people sometimes and there was nothing that could be done about that.

The landlords pointed out that the tow business and the tire business existed on the property before the tenancy started. Tires would accumulate until a certain number was reached and then they would be disposed of. Also, junk cars and metal would accumulate until there was enough for the crusher. The landlords' pointed out that the tenants also stored items on the property, including a large boat.

The landlord acknowledged that sometimes people would sit on the stairs to the rental unit, probably while waiting for tire service. The landlords acknowledged that there were thefts from the property and in response the landlords installed more cameras on the property but that none of the tenants' property was stolen.

The landlords acknowledged their son smokes marijuana but were of the position their son does not sell drugs and were unaware of any stolen goods being on the property.

The landlords asserted the tenants also smoke marijuana and drank and sat around the campfire on the property with the landlords' son. The landlords also stated that the tenants were once friends with their son. The landlords also asserted that the tenants are "criminals too".

The landlords described their son as being very “gullible” with “learning difficulties” and that he is a good person who tries to help people and gets taken advantage of.

The landlords implied that the noise on the property could not have been that bad after 7:30 p.m. since their grandson lives at the property and goes to bed at 7:30 p.m. leaving very little time between the time the tenants got home from work and when the landlords’ grandson went to bed.

The landlords’ position on the “burn-outs” was numerous and varied. The landlords pointed out there were no audio recordings of the burn-outs; but, also acknowledged that customers could have done that and also stated “boys will be boys”. As for the visible tire marks on the road leading away from the driveway, the landlord explained that the marks were from the “S curve” in the road and/or from painting the driveway black. The landlords also questioned what they could have done to prevent people from doing “burn-outs”.

The landlords also stated that tenant RDJ contacted them about not feeling safe at the property. The landlords were asked whether RDJ had indicated the reason for feeling that way to which the landlords described how the other two tenants, MR and CB, were drinking and fighting and there was domestic violence. When I asked whether RDJ had actually told them that, the landlords responded by acknowledging it was not RDJ that told them that but their son. MR and CB denied fighting beyond that of ordinary couples and denied any domestic violence.

I asked the landlords to speculate as to the reason the tenant would send the message of November 24, 2017. The landlords struggled with this question before speculating that it was an attempt to get their deposits back or that the tenants found out the landlords’ were about to sell the house.

I pointed out their son’s social media post about holding drugs for somebody to the landlords for their comment. The landlords notably avoided the issue concerning the drugs and were of the view that the post concerned a dispute about a car being crushed.

As for the police being called in response to the son’s business associate going ballistic on the property, the landlords explained that the business associate accused their son of owing him a lot of money; the business associate starting doing cocaine or crack at the property; and then the police were called.

The landlords called their daughter-in-law as a witness. The landlords' daughter-in-law is the wife of the landlords' son and lived on the residential property in the adjacent living unit during the tenancy. The landlords' daughter-in-law testified that it was the tenants that would party, fight, have people over all the time and make lots of noise with their own vehicle. The daughter-in-law acknowledged there was some noise on the property up until about 7:00 p.m. The daughter-in-law described how her husband, the landlord's son, went to tow the tenant's vehicle out of the bush because they were friends at one time.

The tenants were given the opportunity to cross-examine the landlords' daughter-in-law. The tenant asked the daughter-in-law about whether she or her husband smoked marijuana to which she stated "no". The tenant asked whether there was drug dealing taking place at the property to which she replied "no". The tenant asked whether it was true that child protective services were called to the property to check on her son to which she replied "no". The tenant ceased asking questions of the witness and the witness was excused.

The tenants also responded by pointed out that they did not work every day and that they also expected to be able to enjoy their home on weekends and days off work.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

The burden of proof is based on the balance of probabilities. It is important to note that where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Landlords' application

A tenant is required to leave a rental unit reasonably clean and undamaged at the end of the tenancy pursuant to section 37 of the Act. Section 37 also provides that reasonable wear and tear is not considered damage. A landlord may recover compensation from a tenant if the unit is not left reasonably clean; however, if a landlord seeks to bring the rental unit up to a level of cleanliness greater than reasonably clean the additional cost to do so is that of the landlord. A landlord may also recover compensation to repair damage caused by the tenant, or persons permitted on the property by the tenant, by way of their actions or neglect; however, a landlord may not recover compensation for pre-existing damage or wear and tear.

Awards for damages are intended to be restorative. Where a fixture, appliance or other building element is so damaged that it requires replacement, it is often appropriate to reduce the replacement cost by the depreciation of the original item. In order to estimate depreciation of the replaced item, where necessary, I have referred to normal useful life of the item as provided in Residential Tenancy Policy Guideline 40: *Useful Life of Building Elements.*

Section 21 of the Residential Tenancy Regulations provides that in dispute resolution proceedings, a condition inspection report completed in accordance with the Regulations is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

The move-in inspection report was signed by the tenants and although the tenants assert that it was merely "recycled" from previous tenancies, I am of the view that if there were of the position it did not accurately reflect the condition of the rental unit at the start of the tenancy they would have noted such in the space provided on the report. Therefore, I have accepted that the move-in inspection report fairly represents the condition of the rental unit at the start of the tenancy.

The accuracy and reliability of the move-out inspection report and move-out inspection checklist provided by the landlords were called into question. I note that the inspection checklist given to me by the landlords is different than the one provided to me by the tenants. Upon closer examination of the document provided by the landlords I note that it does appear to be altered and written at different times, as evidence by two different coloured pens and use of "white-out" in several areas. I also compared the move-out inspection reports produced by both parties. I am also of the view that the landlords altered the move-out inspection report after it was prepared with the tenants. For

example: the landlords had written “missing curtains and rods” in the medium bedroom on the report the landlords provided as evidence. When I look at the tenant’s copy of the move-out inspection report, I note that the landlord had written “gone” instead of “missing curtains and rods”. Upon closer examination of the landlords’ copy, it would appear the landlord “whited out” the word “gone” and replaced it with “missing curtains and rods”. Accordingly, I find the move-out inspection report provided to me by the landlords has also been altered by the landlords. Altering a document after it is signed and given to the other party so as to change the meaning and interpretation of the document is fraudulent and the altered document is generally disregarded as being reliable. Therefore, I give very little weight to the move-out inspection report and inspection checklist provided to me by the landlords.

The landlords alleged that the move-out inspection report and checklist provided to me by the tenants was altered as well; however, the landlord also acknowledged that the writing that is seen on these documents is her handwriting. Therefore, I accept that the move-out inspection report and checklist provided to me by the tenants was prepared by the landlord and I have considered it in making my decision concerning cleaning and damage.

Both parties had letters written or signed by other parties in an attempt to demonstrate the condition of the rental unit at the end of the tenancy. The landlords’ son-in-law’s letter was in the landlords’ evidence package excluded from consideration. The tenants’ letters were all written by the tenant and signed by other parties’. I do not give much evidentiary weight to the letters from the tenants in the absence of being able to cross examine the persons who purported signed the letters.

Both parties provided photographs of the property taken at the end of the tenancy. I find the photographic evidence to be the best evidence before me as to the condition of the rental unit at the end of the tenancy and I give the photographs the most evidentiary weight.

1. Cleaning

From the landlords’ photographs I see a dirty kitchen sink, a dirty area on the kitchen floor that the landlords described as mould, mould in the window sills in the bathroom and master bedroom, mould in the corners of the shower stall that likely required cleaning; and stains on a blue curtain that the landlords described as vomit. There were other areas of mould appearing on carpeting and the living room ceiling; however, the landlords seeks compensation for these items in other ways (carpet replacement and painting) so I do not consider these photographs to be part of the cleaning claim. I find

the landlords had provided inconsistent evidence with respect to the need to clean the oven. The landlords had testified that the tenants cleaned the over with a chemical and that appears consistent with the move-out inspection checklist; however, the landlords provided a photograph of an oven that appears not to have a chemical residue but build-up of burned on food. I find the landlord's conflicting evidence regarding the oven is unreliable.

The tenants took copious amounts of photographs and they show a rental unit that appears clean. I note that the tenants' photographs do include photographs that show mould on the ceiling in the living room and at the base of the shower stall.

The landlords' took close up photographs of dirty areas; whereas, the tenant's photographs are taken from further away. The tenants' photographs were taken before the landlords' took possession of the property; however, I find it less clear when the landlord's photographs were taken.

Based on the photographs of both parties, I find the tenants left the rental unit reasonably clean in most areas; however, I find I am satisfied that some additional cleaning was required in the window sills in the bathroom and master bedroom; and the caulking in the shower stall since there appears to be an accumulation of mould or algae and would not occur over a short period of time. As for the dirty sink and dirty area on the kitchen floor, I am of the view these would have taken a minute or two to wipe. The landlords' did not provide me with sufficient evidence that the walls were "slimy" and smoky.

In support of the landlords' claim for compensation, the landlord's rely on a quote, without producing an invoice or receipt to show what was cleaned and the actual cost. I find the quote in itself is not overly helpful since the quote is based only on what the landlord advised the cleaning company and there is no verification as to what the landlord described to the cleaning company. I also find it unusual that the landlords would have cleaners come to the property at various multiple times to deal with areas left dirty by the tenants. Rather, I find it more likely that cleaning was required after the various repairs and renovations. Accordingly, I find I am unpersuaded that the landlords incurred the loss they claim due to the tenants' failure to leave the rental unit reasonably clean.

All things considered, I find the landlords' claim for over $761.25 in compensation for cleaning to be excessive in comparison to the few areas that required additional cleaning.

In light of the above, I find provide the landlords with a nominal award of $100.00 in recognition that some additional cleaning was required but that the claim for $761.25 was not sufficiently supported.

2. Carpet replacement

The parties were in dispute as to whether the tenants damaged the carpeting in two bedrooms and the sunroom.

Both parties provided photographs of the carpeting. In the tenants' photographs I can see dark areas in the beige carpeting in one of the bedrooms and in the landlords photographs show the underneath of the carpeting appears quite dirty. Also, in a text message dated February 25, 2017 the tenant writes "by the way we have a carpet cleaner, and we are not doing [RDJ's] room as he let his dog piss and shit in his room many times…" I accept on the balance of probabilities that this carpeting was damaged by pet urine and/or feces during the tenancy.

The tenants also assert that the small bedroom was not used during their tenancy; which appears consistent with the landlords' claims that the door to one bedroom was kept closed and the heat turned off. I accept that mould has a tendency to form in rooms that are not adequately heated and have insufficient air flow and shutting off a room like that is negligent on part of the tenants. Therefore, I accept on the balance of probabilities that this carpeting was damaged as a result of negligence on part of the tenants.

Although I am satisfied that the tenants are responsible for stains on the carpeting of the two bedrooms and the carpeting was likely replaced by the landlords since they pulled it up at the end of the tenancy, I find the landlords' request for compensation equivalent to the full replacement cost of new carpeting for seven year old carpeting to be unreasonable. Policy guideline 40 provides that carpeting has an average useful life of 10 years and the subject carpeting was approximately 7 years old and the landlords ought to expect that after seven years the carpeting is going to show signs of wear and tear. Therefore, I award the landlords' 30% of the replacement cost for the bedroom carpeting which I calculate to be $455.52 [($507.00 + $1,011.40) x 30%]. I have not added on tax because the landlords' ended up buying "Pergo" flooring for which I do not have a receipt and the landlords' paid the installers in cash.

As for the sunroom carpeting, I find the landlords' request to recover $3,156.00 plus tax to be unreasonable. The landlords had indoor/outdoor carpeting in the sunroom that was blue, without underlay and was several years old; whereas, their claim is based on

medium quality carpeting (not indoor/outdoor) with underlay. In my view, new medium quality carpeting with underlay would be a betterment over what was in the rental unit and the tenants are not responsible to pay for a betterment of the property.

Also of consideration is that the landlords claim the indoor/outdoor carpeting was muddy. Since the carpeting was glued to the floor and intended to be in an outdoor environment I would expect that the carpeting could have been washed again. The move-out inspection describes damage to the fireplace tile in the sunroom but nothing is noted with respect to the flooring in the sunroom. All things considered, I find I am unsatisfied the landlords are entitled to the compensation they are seeking for indoor/outdoor carpeting that was several years old but with a muddy residue and I make no further award for carpet replacement.

3. Broken fridge part

It was undisputed that there was a broken part in the fridge at the end of the tenancy. The part is plastic and would not interfere with operation of the fridge but I accept that the part should be in place for the fridge to function as it was intended. Considering the fridge was seven years old, which is approximately half way through its useful life based on policy guideline 40, and subject to years of wear and tear, I award the landlords one-half of the replacement part cost, or $67.20 ($134.39 x 50%)

4. Bathroom floor replacement

There was no dispute that the bathroom was mouldy; however, the cause of the mould was in dispute. In order for the landlords to succeed in holding the tenants responsible to replace the bathroom flooring, the landlords would have to demonstrate the tenants caused water to be introduced in the wall or under the flooring due to their actions or were aware of it happening and negligently failed to report it.

The landlords provided photographs showing mould growth in the corners of the shower stall and along the edge of the vinyl flooring; however, these photographs do not demonstrate the reason the floor was mouldy underneath the vinyl flooring. The landlords stated that it was because the tenants were hanging a shower caddy off the shower head; however, the tenants denied that to be accurate and pointed to evidence of previous leaks from the bathroom plumbing, as evidence by a visible patch in the living room ceiling below.

The landlord did not provide photographic or video evidence to show that the piping for the shower head was leaking.

While I accept that the visible mould in the living room ceiling should have resulted in a report to the landlords, by the time mould formed on the ceiling below I find it likely mould would have already formed under the vinyl floor. Thus, I am unpersuaded that the tenants failure to report mould on the ceiling created a greater loss for the landlords.

In light of the above, find the opposing evidence before me, in the absence of other evidence to support the landlords' version of events, is insufficient for me to conclude the mouldy sub-floor are a result of the tenants using a shower caddy or negligence, as alleged. Therefore, I deny the landlords' claim for recovery of costs to lay a new bathroom floor.

5. Photocopying and paperwork costs

I dismissed this claim summarily as explained in the background and evidence section of this decision.

6. & 7. Painting master bedroom and living room

Policy Guideline 40 provides that interior paint has an average useful life of four years. As of the end of the tenancy it was at least four years since the walls had been painted. Further, Policy Guideline 1 provides that landlords should expect that a tenant will hang things such as artwork or mirrors on the walls and that some holes should be expected as part of normal wear and tear. I note that on the landlord's move-out "checklist" the landlord indicates there are nail holes in walls in a number of rooms with a notation that this is "not" okay. The landlord's assessment appears inconsistent with the policy guideline that nail holes are usually wear and tear. As such, I find the walls and ceiling were likely due for touch ups and repainting after several years of aging and wear and tea and I deny the landlords' request to recover costs to repaint these rooms from the tenants.

8. Missing items

The parties were in dispute as to whether the tenants were provided a mirror and blinds and curtain rods with the rental unit. The landlord submitted that the mirror was hanging on two large hooks in the entry way and that it was left in the rental unit for the previous tenants. The tenants stated the mirror was not left for them at the start of the tenancy. I do not see the mirror listed in the tenancy agreement or the move-in inspection report. Therefore, I find the landlords did not meet their burden to prove the tenants are responsible for a missing mirror.

The landlords had claimed that the curtains and rods were gone from the small and medium bedrooms; yet, the move-in inspection report indicates the small bedroom had no window coverings at the start of the tenancy and the medium bedroom had blinds at the start of the tenancy. Therefore, I find the move-in inspection report does not support the landlords' allegation that the tenants took curtains and curtain rods from the bedrooms.

The move-in inspection report indicates that there were sheers in the downstairs bathroom. While the bathroom sheers may have gone missing at the end of the tenancy, the landlord has not provided evidence to support a claim for at least $100.00 for the bathroom sheers. In recognition of the loss of the bathroom sheers, I award the landlords a nominal award of $1.00.

As for the missing wicker table and couch cushion, the parties were in dispute as to whether the wicker furniture and tables were provided as part of the tenancy. While that point is arguable since the tenancy agreement does not indicate furniture is provided, but the move-in inspection report indicates the sunroom had wicker furniture and tables; the tenants questioned the value of the items. The tenants were of the position the furniture was unwanted and subpar. The landlords were of the position the furniture was desirable and left behind because the previous tenants wanted it. The landlords have the burden to provide verification of the value of the items missing or damaged. The landlords did not provide me with any corroborating evidence as to the value of these items. Further, the landlords submitted that the couch was thrown away after the tenancy ended. If the cushion had a value of $20.00 and the couch was desirable it does not make sense to me that the couch would be disposed of. As such, I find this lends credence to the tenants' position that the furniture was of little or no value. Therefore, I make a nominal award of $1.00 to the landlords for the missing table and $1.00 for the missing couch cushion.

Tenants' application

1. Return of double the security deposit and pet damage deposit

As provided in section 38 of the Act, a landlord has 15 days, from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit and/or pet damage deposit to the tenant, reach written agreement with the tenant to keep some or all of the deposits, or make an Application for Dispute Resolution claiming against the deposit(s). If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does

not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.

In this case, the tenancy ended on February 28, 2017 and I heard consistent testimony that on that date the tenants provided a business card to the landlords with an address to use to serve the tenants. Although the landlord subsequently misplaced the business card, the landlord obtained the address again on March 7, 2017 and filed their Application for Dispute Resolution on March 10, 2017. Certain corrections were needed and the corrected application was received on March 15, 2017. Accordingly, I am satisfied that the landlords made a claim against the tenants' deposits within the 15 day time limit for doing so.

If a landlord makes a frivolous claim against a deposit, which is an abuse of process, an Arbitrator may still award return of double the security deposit and pet damage deposit. The tenants alleged that the landlords' claims against them and their deposits are retaliatory and without merit. While the landlords were not very successful in proving their entitlement to much of the compensation they claimed by way of their Application, the landlords had some success and I am not satisfied that the landlords' claims were entirely frivolous or without merit. Therefore, I do not award the tenants return of double the deposits.

In keeping with the above, the tenants will be given credit for the single amount of the deposits in calculating the Monetary Order later in this decision.

2. Loss of quiet enjoyment

Under section 28 of the Act, a tenant is entitled to quiet enjoyment of the rental unit which includes reasonable privacy, freedom from unreasonable disturbance of the rental unit, and freedom from significant interference with use of the residential property, including common areas.

Residential Tenancy Branch Policy Guideline 6: *Entitlement to Quiet Enjoyment* provides policy statements and information with respect to the covenant of quiet enjoyment. Policy Guideline 6 provides, in part:

> A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference,

> and situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.
>
> Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.
>
> A landlord can be held responsible for the actions of other tenants if it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it.
>
> **Compensation for Damage or Loss**
> A breach of the entitlement to quiet enjoyment may form the basis for a claim for compensation for damage or loss under section 67 of the RTA and section 60 of the MHPTA (see Policy Guideline 16). In determining the amount by which the value of the tenancy has been reduced, the arbitrator will take into consideration the seriousness of the situation or the degree to which the tenant has been unable to use or has been deprived of the right to quiet enjoyment of the premises, and the length of time over which the situation has existed.
>
> [My emphasis underlined]

In this case, the tenants assert that they suffered from repeated and on-going disturbances at the property and that the source of their disturbances are largely attributed to another occupant of the residential property, the landlords' son living in the adjacent unit and operating a tire and tow business from the property, and his associates or friends. As the owners/landlords of the property the landlords have an obligation to protect their tenants' right to quiet enjoyment of the property even if the source of the distance is the landlords' son and not the landlords directly.

Once a landlord becomes aware that their tenant is being disturbed or interfered with at the property, the landlord is expected to investigate and take appropriate action so as to protect their tenants' lawful right to quiet enjoyment.

In this case, the tenant notified the landlord on November 24, 2016 that the tenants were stressed and disturbed about the activities at the property and sought remedy from the landlords. The landlord acknowledged receipt of the tenant's message; however, the parties were in dispute as to whether the landlord contacted the tenant after receiving the message.

The landlords maintained the tenant's complaint about the activity at the property was largely false; however, when I asked the landlords to speculate as to the reason the tenant would write the complaint of November 24, 2016, especially considering the tenant was obviously worried about the relationship with their son deteriorating further if he knew of the complaint, the landlords were unable to provide a viable motive. The male landlord stated that the complaint of November 24, 2016 may have been a means for the tenants to get their security and pet damage deposits back; however, that makes no sense to me since the complaint was made while the tenancy will still in full force and there would have been no expectation for a refund of the deposits at that time. The female landlord speculated that the complaint was made because the tenants may have learned the house was about to go for sale; however, I do not understand the connection between the complaint and the house going for sale and it makes no sense to me that the tenant would jeopardize what he described as a fragile relationship at the property.

Upon review of the tenant's complaint of November 24, 2016 and upon consideration of the evidence that was presented to me by the tenants, I find I am satisfied the tenants had a legitimate complaint concerning the activities taking place at the residential property and a reasonable expectation that the landlords would take sufficient action to address their complaint.

According to the landlords the action they took upon receipt of the tenant's complaint was to inform their son of the complaint, despite the tenant's repeated request that the landlords not inform their son of the complaint made. According to the landlord she spoke to her son about the tenant's concerns and their son attributed any disturbances to bad people associated with the tire or tow business and that there was nothing that could be done about that. It appears that the landlord blindly accepted their son's explanation even though the tenants had been living adjacent to these businesses for years without complaint.

In hearing from the landlords in response to the tenants' descriptions of disturbance at the property, I find the landlords had a tendency to minimize, deny and provided varying excuses, all of which I find consistent with either denial or willful blindness that their son and/or his associates where involved in the activities described by the tenants.. As an example, when I drew the landlords' attention to the social media posts about the landlords' son holding drugs, including heroin, for someone, the landlords were of the view the post primarily concerned a dispute over a crushed car. As another example, the tenants complained of frequent burn-outs at the property. The landlords' responses varied from denying that to be true; attributing the tire marks to the curve in the road

even though the tire marks come from the driveway; painting the driveway bridge black; to disgruntled customers doing it; to, “boys will be boys”. In some instances the landlords attributed some of the tenant’s complaints to running the businesses; however, the tenants’ complaints of frequent and disturbing conduct at the property did not appear consistent with typical actions of legitimate business customers.

The landlords called their daughter-in-law to testify, but not their son, even though their son was present at the time the landlords called their daughter-in-law. I found the daughter-in-law’s testimony to be inconsistent with other testimony provided by the landlords. To illustrate: upon cross examination the daughter-in-law denied that she or the landlords’ son smoke marijuana; yet, the landlords had already testified that their son does smoke marijuana. I find the witness testimony not very credible and I have not relied upon her testimony. It is important to note that it is not the use of marijuana itself that is at issue but the inconsistency in testimony and my determination of credibility of the landlords’ witness.

In contrast, I found the tenants provided consistent testimony and I find their documentary and photographic evidence was sufficient for me to accept, on the balance of probabilities, that the activities at the property included: drug use and selling; theft; altercations; loss of privacy; and, excessive noise. I further accept that these activities were frequent and on-going over a number of months which constitutes unreasonable disturbance. According, I find there to be a breach of quiet enjoyment.

While I understand the landlords may be in denial or compelled by a moral obligation to defend their son, it is important to recognize that the landlords have a <u>legal</u> obligation to the tenants, and failure of the landlords’ to sufficiently deal with the tenants’ loss of quiet enjoyment of the property they are renting is a basis for me to award the tenants compensation from the landlords.

Not only am I satisfied that the tenants suffered a loss of quiet enjoyment due to the landlords’ failure to rectify a situation brought to their attention, but, I find the landlords’ conduct likely caused the situation to worsen. Even though the tenant asked the landlord twice in his message not to tell their son that he was raising concerns to their attention, the landlord proceeded to tell her son. The tenants assert the disturbances worsened after the complaint was made and I accept that is likely true given the landlord’s decision to tell their son about the complaint.

The tenants seek compensation for the months of December 2016 through to February 2017. I find the tenants’ request for this time frame to be reasonable. The tenants had

notified the landlord of their concerns November 24, 2016 which allowed the landlords some time to take corrective action. The landlord failed to take corrective action and contributed to making the situation worse. Therefore, I find the tenants are entitled to compensation for the months sought.

The tenants seek compensation equivalent to 100% of their monthly rent for the three months described above. I find that request to be unreasonable considering the tenants still had use of the rental unit for eating, sleeping, bathing and other living activities. As such, I find a more reasonable award to be equivalent to 1/3 of the monthly rent. Therefore, I award the tenants a sum of $2,100.00 for loss of quiet enjoyment for the period of December 2016 through February 2017.

As for the landlords' argument that the tenants should not be entitled to any compensation for February 2017 because they did not pay rent for February 2017, I reject that argument. The tenants were legally entitled to withhold rent for February 2017 as compensation payable by the landlords under section 51(1) of the Act because the landlords' brought the tenancy to an end by way of *a 2 Month Notice to End Tenancy for Landlord's Use of Property*. Where a tenancy ends by way of a 2 Month Notice, the tenants are entitled to compensation from the landlord equivalent to one month of rent and the tenant is legally entitled to occupation of the rental unit without paying rent for the last month to offset the inconvenience and costs to move. Since the tenancy was still in effect until February 28, 2017 the tenants remained entitled to all of the use and quiet enjoyment of the rental unit. The landlords are not exempted from protecting the tenants' right to quiet enjoyment of the property for the last month of tenancy.

Filing fee, Security Deposit and Pet Damage Deposit and Monetary Order

The landlords had very limited success in their claims against the tenants and I make no award for recovery of the filing fee they paid for their application.

The tenants also had limited success; however, I am of the view that they were more successful in their claims than the landlords. Accordingly, I award the tenants partial recovery of the filing fee, or $50.00.

The tenants have a security deposit and pet damage deposit in the amount of $1,775.00. I authorize the landlords to make the following deductions from the deposits and I order the landlords to return the balance of the deposits to the tenants, along with the other amounts I have awarded to the tenants, calculated as follows:

Security Deposit and Pet Damage Deposits	$1,775.00
Less authorized deductions for:	
Cleaning	(100.00)
Carpet damage	(455.52)
Broken fridge part	(67.20)
Missing bathroom sheers (nominal award)	(1.00)
Missing table (nominal award)	(1.00)
Missing couch cushion (nominal award)	(1.00)
Balance of deposits owed to tenants	$1,149.28
Plus awards to tenants for:	
Loss of quiet enjoyment	$2,100.00
Recovery of filing fee (partial)	50.00
Monetary Order for tenants	$3,299.28

The tenants are provided a Monetary Order in the net amount of $3,299.28 to serve and enforce upon the landlords.

Conclusion

The landlords had limited success in their claims against the tenants and the tenants were partially successful in their claims against the landlords. After offsetting, the landlords are ordered to pay to the tenants the sum of $3,299.28. The tenants are provided a Monetary Order in this amount to ensure payment is made.

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: April 27, 2018

Residential Tenancy Branch