Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This proceeding dealt with a landlord's application for monetary compensation for unpaid rent and utilities; damage to the rental unit or property; other damages or loss under the Act, regulations or tenancy agreement; and, authorization to retain the security deposit and pet damage deposit, as amended.

Both parties appeared or were represented at the hearing and had the opportunity to be make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The hearing was held over three hearing dates. An Interim Decision was issued following the first and second hearing date and should be read in conjunction with this decision.

It should be noted that a considerable amount of evidence and submissions were provided to me, all of which I have considered; however, with a view to brevity in writing this decision I have only summarized the parties' respective positions and referenced the most relevant evidence.

Issue(s) to be Decided

1. Have the landlords established an entitlement to compensation from the tenants in the amounts claimed, as amended?
2. Are the landlords authorized to retain the tenants' security deposit and pet damage deposit?

Background and Evidence

The month to month tenancy was set to commence on March 15, 2017 although the tenants were provided early possession on March 10, 2017. The tenants paid a security deposit of $1,125.00 and a pet damage deposit of $375.00. The tenants were required to pay rent of $2,250.00 on the 15th day of every month.

The rental unit the main unit in a large house that is located on a large parcel of property. The tenants also rented a storage area on the property to run a construction business and paid rent separately from the monthly rent. The landlords also ran a blueberry farm from the property and retained some storage area on the property. A basement suite in the house was also tenanted.

The landlords issued a *1 Month Notice to End Tenancy for Cause* ("1 Month Notice") on January 29, 2018 and a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* ("10 Day Notice") on February 24, 2018. The tenants disputed the Notices to End Tenancy; however, it was unnecessary to determine the validity and enforceability of the Notices to End Tenancy at the hearing set for April 11, 2018 since the tenants returned possession of the rental unit to the landlords on March 21, 2018.

The parties participated in a move-in and move-out inspection together and the landlords prepared condition inspection reports at the start and end of the tenancy. The tenants did not authorize the landlords to make any deductions from the security deposit or pet damage deposit and provided a forwarding address in writing.

The landlords filed Amendments to their Application for Dispute Resolution dated March 12, 2018 and March 22, 2018 seeking monetary compensation from the tenants. Below, I have summarized the landlords' claims against the tenants and the tenants' responses

Repairs to landscape -- $3,100.00 and $1,275.00

The landlords seek compensation of $3,100.00 and $1,275.00, based on estimates obtained from a landscaper, to clean up and repair the landscaping at the rental property.

The landlord submitted that the tenants moved concrete pavers, damaged the grass; built a large raised garden bed; left garbage and lumber behind. In addition, the

landlords submitted that the tenant had driven over the back lawn numerous times when he accessed a storage area he used to run his business instead of using the appropriate access road (a right of way shared with a utility company). The landlords notified the tenant several times to stop driving across the lawn but he ignored their instructions. The landlords even wrote letters to the tenant concerning changes the tenant was making to the property.

The landlords acknowledged that the restoration work has not yet been performed, explaining that they cannot afford to do so. The landlords provided a written estimate, photographs, video evidence, and letters purportedly written by the basement suite tenants in support of their claim. The landlords explained that they had an acquaintance inspect and prepare the estimates as the landlords had little time to obtain estimates or quotes given the date the tenants moved out and the hearing date.

The tenant submitted that the concrete pavers were the landlords' pavers and the tenants should not have to pay to remove them. The tenant submitted that he improved the property by clearing brush, removing blackberries, planting grass, and moving the greenhouse. In addition, the tenant had the landlord's permission to build the garden bed and the landlord even gave the tenant soil to use. The tenant was of the position he improved the property and did not leave it damaged. The tenant acknowledged some wood was left behind but stated it is firewood that may be burned in the two fireplaces in the house. The tenant offered to remove the firewood if it was such a big deal.

The tenant questioned the veracity of the estimates obtained by the landlords pointing out that the garden bed is still there, the former tenants had a garden too, and the landlord merely spread the soil around with a neighbour's tractor.

The tenant acknowledged driving through the yard to access his business storage area but claimed that this was contemplated when he rented the storage area from the landlords. The tenant claimed that when the landlords told him to stop driving through the yard he did. The tenant also claimed the other tenants on the property drove in the yard and the landlords also drove through the yard at times to access their blueberry farm and boat. The tenant was of the position that it is impossible to apportion all of the damage or costs to remediate the lawn to the tenants. Finally, there is no evidence to demonstrate the condition of the yard at the start of the tenancy.

The landlords acknowledged the tenant did put some dirt in the ruts caused by driving over the lawn, leaving the damage less noticeable when the grass grew in, but the

landlords remain of the position the ruts and other tire tracks require repair. The landlords stated that the basement suite tenants had obtained permission to drive on a certain area of the yard when they were moving. The landlords have also driven through the yard as well to access their blueberry farm but only in certain areas when the land is dry so that they do not cause damage.

Unpaid utilities (BC Hydro) -- $933.36; $855.46 and $87.31

The tenancy agreement requires the tenants to pay 75% of the BC Hydro bills for the property. The hydro account is in the landlords' name.

The landlords seek $933.36 for the BC Hydro bill of January 22, 2018 (for service to January 19, 2018) and $855.46 for the period of January 19, 2018 to March 20, 2018. The landlords also seek to recover $87.31 that the tenants withheld from the November 21, 2017 hydro bill for unauthorized deductions.

With respect to the deductions made from the November 2017 bill, the landlords submitted the tenants withheld $87.31 for a thermostat and $42.98 for a dimmer switch installed in the rental unit. The landlords wrote a letter to the tenants regarding the unauthorized deductions informing the tenants that they were not agreeable to these deductions unless the tenants produced the original receipts. The landlords were of the view the materials purchased were more expensive than the ones the landlords would have purchased if such materials were required. The tenant refused to provide the landlords with the original receipt(s) so the landlords seek to hold the tenants responsible to pay $87.31 shortfall for the November 2017 hydro bill.

As for the deductions for a thermostat and dimmer switch the tenant explained that he had made the landlords aware of the problems with these things and when the landlords would not take sufficient action the tenant purchased the materials and installed them himself. The tenant claimed the landlords originally permitted the deductions but then asked for receipts. The tenant offered to provide the landlords with an invoice/receipt from his own construction company but could not provide the landlords with the original receipts from the supplier as he needs such documents for his business tax purposes.

The tenant was of the position that having to pay 75% of the hydro bill is unreasonable considering the hydro was also used by the basement suite tenants. The tenant submitted that the first set of basement tenants had a baby during their tenancy which resulted in additional consumption of hydro that was not taken into account. A second set of basement suite tenants had a third adult reside in the basement suite.

As for the 75% allocation of hydro to the tenants, I informed the parties that a term in a tenancy agreement is not enforceable if the term is “unconscionable”. I instructed the parties to provide me with submissions concerning the 75% allocation.

The landlords testified that when the tenancy formed the allocation of 75% was agreed upon and that it was based upon the area of the rental unit and the number of occupants in the rental unit and the basement suite. I heard that the house is approximately 4500 sq. ft. with the rental unit comprising 3,600 sq. ft. and the basement suite 900 sq. ft. In addition, each unit was allocated one bay in the garage and the third bay was used for the landlord’s storage.

The landlords submitted that the first basement suite tenants were a couple and they did have a baby during the tenancy but they moved out a couple of months later. The second basement suite tenants consisted of two adults but not a third occupant. Rather, the third person the tenant referred to was only a guest and housesitting when the basement suite tenants were away. The landlords submitted that also of consideration was that the tenants had additional people residing with them and the tenant was using hydro in the storage area by running extension cords instead of using a generator like he was supposed to. The landlords submitted that the tenant only raised the issue of an unfair allocation when the landlords objected to the tenant making deductions from the hydro bill for the thermostat and dimmer switch.

The tenant submitted that the allocation of hydro was set before the tenants moved in and the tenants were unaware of the consumption in the different units and the allocation set in the tenancy agreement does not take into account the change of circumstances. The tenant claims to have raised the issue of the hydro allocation in emails sent to the landlords but acknowledged that they did not submit those as evidence. The tenant claimed that there were also oral discussions with the landlord concerning the allocation of the hydro bills. The tenant denied having additional occupants except for a nephew that stayed approximately two weeks.

Unpaid rent -- $2,250.00

The landlords seek unpaid rent because the tenants put a stop payment on the rent cheque dated March 15, 2018. The landlords testified that they were awaiting the hearing set for April 11, 2018 but then they noticed what appeared to be the tenants moving their possessions out on March 16, 2018. The basement suite tenants informed the landlords that the tenants appeared to be moving or moved out on March 19, 2018.

The landlords then received a communication from the tenants indicating they would be returning possession of the rental unit to them on March 21, 2018, which they did. The landlords testified that the unit was re-rented effective May 1, 2018.

The tenant testified that they disputed the eviction notices because they were without merit but they did look for new accommodation while awaiting the hearing and when they found a new home they decided to move out. The tenant stated that the tenants gave the landlords notification of their intention to vacate the rental unit but could not recall the specific details of this notice. The tenant stated that it was most likely stated orally to the male landlord during a heated argument in the back yard. The tenant was of the belief there was no need to pay rent for March 15, 2018 based on the conversation he had with the landlord and the landlord seemed pleased that the tenants were moving. The tenant explained that they moved out after the 15th of March 2018 because they moved on the weekend and that is usually what happens when people move.

The tenant was also of the position that he should be given credit for rent he paid for the storage area until April 2018 considering he removed his business possessions by March 2018. The landlord pointed out that rent for the workshop was paid quarterly and the rental period for the workshop was from January 2018 through to March 2018.

Re-installation of alarm -- $414.74

The landlords submitted that the tenants removed motion sensors in the rental unit and installed their own security system. The tenants were required to reinstall the landlord's security system as agreed upon.

The tenant submitted that the landlord's existing security system was very outdated and not working. The landlords authorized the tenants to have the old system inspected and see what could be done with it but nothing could be done with such an old system so the tenants had a new system installed. The tenant stated that only one old motion sensor was removed from the wall and it was stored downstairs.

The tenant questioned the veracity of the landlord's estimate to repair the system and believes a friend or relative of the landlord prepared the estimate. For instance, the estimate refers to the motion sensor being "stolen" by the tenant which shows the landlord's influence on the person preparing the estimate.

Repairs to walls and moulding and repainting -- $1,417.50

The landlords submitted that the tenants damaged 12 walls in the rental unit but mainly in the living room and bedroom. The damage included paper that was pulled off the drywall which required multiple applications of drywall mud, sanding and then repainting to repair. Also, holes were created in the moulding and some moulding was removed. The landlord obtained an estimate but ended up doing the work himself and spent approximately 50 hours do these repairs.

The tenant acknowledged creating some holes in the drywall and moulding from installing a baby gate, fire extinguishers, and securing dressers to the wall for the safety of children. The tenant considers these holes to be wear and tear.

The tenant also stated some moulding and baseboard was missing at the start of the tenancy and that one piece even fell off during the tenancy due to what the tenant considers insufficient affixation with glue instead of nails as a result of a lot of “do it yourself” work.

Cleaning -- $751.80

The landlords submitted that the tenants left the unit dirty including dirty walls, oven, curtains, floors and blinds. Also, the decks were very dirty and required power washing. The landlords obtained an estimate but did the cleaning themselves. The landlord and a friend cleaned the rental unit over three days, approximately 6 to 7 hours each day.

The tenants submitted that they hired a cleaner at a cost of $400.00 to have the unit cleaned at the end of the tenancy and the tenants cleaned the unit themselves as well. The tenants and their cleaner cleaned the bathroom, walls, floors, window sills, and blinds. The three of them spent one full day cleaning the rental unit.

The tenant was not agreeable to being responsible to power wash the decks as this is a landlord responsibility. Further, the move-in inspection report does not detail the condition of the decks at the start of the tenancy.

The tenant acknowledged the oven does not look new anymore because it was used during the tenancy which should be considered wear and tear.

The tenant was of the positon the landlords claim for over $700.00 for cleaning is excessive and unreasonable.

Missing items – $256.38 and $145.37

The landlords submitted that the tenants took items from a shared storage shed including garden hoses and manifold; and, a shower head taken from the bathroom. The landlords re-purchased these same or similar items, at a cost of $256.38, and seek to recover the cost to do so from the tenants.

The landlords also seek to recover the cost of items purchased by the tenant during the tenancy, in the amount of $145.37, and deducted from monies owed to the landlords. The landlords were of the positon that since they paid for these items, they belong to the landlords, and the items should have been left behind at the end of the tenancy but they were not. The items purchased by the tenant included a hose for the washing machine, couplings and abs cement for a plumbing repair, and rat and mouse traps.

The tenant denied taking the items alleged by the landlords. The tenant pointed out that a hose can be seen in the video taken at the move-out inspection and there was a pile of hoses in the shed. The tenant stated another tenant took a hose bib. Also, the shower head in the bathroom was cheap so the tenant installed his own shower head and left the landlords' in the cabinet.

As for the items purchased by the tenant and deducted from rent, the tenant explained that the landlords removed the old washer and dryer and took the hoses with them so the tenant had to purchase new hoses to use with the washer and dryer he had to purchase. As far as the abs cement, this was used for a plumbing repair at the rental unit and after the container is opened it hardens and was thrown out. The coupling was also required for the plumbing repair and the tenant is of the position the receipt indicating he bought multiple couplings was not accurate. Finally, the rat and mouse traps were used around the property and were moved around to new locations from time to time and are disposable.

Damage to dishwasher -- $312.35

The landlords submitted that the dishwasher was new at the start of the tenancy and at the end of the tenancy it was dented. The landlords obtained an estimate to have the panel replaced but ended up buying a new panel and installed it themselves. The new

panel cost $191.70 plus tax, and the landlord spent 2 hours transporting and installing the new panel.

The tenant questioned the landlords' actual losses and whether a repair was required. The tenant was also of the positon the dishwasher was left fully functional and that if anything, there was only wear and tear to the dishwasher. The tenant pointed to the video to show the condition of the dishwasher.

Analysis

Based upon 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. The burden of proof is based on the balance of probabilities. 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.

Under section 32 of the Act, a tenant is obligated to repair damage caused by the actions or neglect of the tenant or persons permitted on the property by the tenant. Under section 37 of the Act, a tenant is required to leave a rental unit reasonably clean and undamaged at the end of the tenancy. However, sections 32 and 37 also provide that reasonable wear and tear is not considered damage. Accordingly, a landlord may not seek compensation from a tenant for reasonable wear and tear or pre-existing damage.

Awards for damages are intended to be restorative. Where a fixture, appliance or other building element is so damaged 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 provide that “in dispute resolution proceedings, a condition inspection report completed in accordance with this Part 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.”

Condition inspection reports were prepared at the start and end of the tenancy. There was no dispute with respect to the condition reflected on the move-in inspection report. However, the tenant indicated on the move-out inspection report that he did not agree with the landlord’s assessment of the condition of the property at the end of the tenancy, indicating the landlord’s assessment was grossly exaggerated. Accordingly, I have relied more heavily on other evidence to determine the condition of the property at the end of the tenancy, such as photographs and videos.

Yard damage/ garden and garbage removal

It was undisputed that the tenant drove over the back yard lawn to access the storage area. At issue were the losses the landlords have incurred as a result of the tenant’s actions, if any.

The landlords provided photographs and video evidence showing indentations in various areas of the lawn that appear to be tire tracks and large rutting caused in a lower area of the back yard. The landlords assert these tracks and ruts were caused by the tenant.

The tenant acknowledged driving in the yard at times but also provided evidence to demonstrate others drove or parked on the grassy areas of the yard as well. The tenant provided audio recordings whereby the tenant informs the male landlord that the basement suite tenants have been driving in the yard even after the tenant had spread soil around. The tenants also provided photographs that appear to depict other vehicles parked or driving on the grassy areas.

The video provided as evidence by the landlords shows two trucks and a trailer that appear to be stuck in the lower part of the backyard and appears to support their position that significant rutting was caused by the tenant’s stuck vehicle and/or trailer. I did note that the trailer appears to have a large amount of soil in it. The landlord acknowledged the tenant put soil down and that it did look a little better afterwards.

The landlords provided an estimate in support of the $3,100.00 claimed for damage attributable to tire tracks and rutting. The estimate is dated March 6, 2018 which is a couple of weeks before the tenancy ended. I am uncertain as to when the person preparing the estimate viewed the property.

While I accept that tire tracks and rutting were caused during the tenancy, I find I am uncertain as to the damage caused by the tenant only when I consider others tenants and the landlords appear to have driven on the property; and, it appears the tenant filled in the rutting, at least in part before the end of the tenancy. As pointed out by the tenant or his lawyer, I find the estimate provided to me makes it very difficult to apportion the amount estimated to the tenants alone and I am uncertain as to whether it reflects the condition of the property at the end of the tenancy. Therefore, I am of the position it would be unreasonable to award the landlords the entire $3,100.00 that is claimed for yard damage.

It is also undisputed that the tenant installed a garden bed on the property. With respect to the garden bed, I refer to Residential Tenancy Policy Guideline 1, which provides, in part:

> **PROPERTY MAINTENANCE**
> 1. The tenant must obtain the consent of the landlord prior to changing the landscaping on the residential property, including digging a garden, where no garden previously existed.
> 2. Unless there is an agreement to the contrary, where the tenant has changed the landscaping, he or she must return the garden to its original condition when they vacate.
>
> [My emphasis underlined]

The tenant stated he had the landlord's consent to install the garden bed which I accept; however, I find the tenant was responsible to return the land to its original condition as provided in policy guideline 1, which would mean removal of the garden bed and replanting grass. The tenants did not do this. The landlord indicated an estimate was obtained to remove the garden bed, repair the grass, move paving stones, and remove garbage; however, I am unable to locate such a document in the evidence uploaded. Rather, it appears that the landlords uploaded multiple copies of the March 6, 2018 estimate for $3,100.00.

Nevertheless, in recognition the tenants altered the property by installing the garden bed and did not return the property to its original condition, and the likeliness that the deep ruts caused by the tenant may require additional remediation, I find it appropriate to award the landlords a nominal award. I award the landlords $500.00 for yard remediation.

Unpaid hydro bills

It is undisputed that the tenancy agreement obligates the tenants to pay 75% of the hydro bills for the property and the tenants deducted $87.31 from the November 2017 bill and did not pay any of the hydro bills thereafter.

The tenant was of the position that paying 75% was unreasonable based on the number of occupants in the basement suite and the hydro consumption by the basement suite occupants. The landlords were of the position that 75% was a reasonable approximation.

Where multiple units are on a single utility meter it is not uncommon for the utility bill to be allocated to different units/tenants and that most often a reasonable approximation is used to do so. I have considered whether the requirement for the tenants to pay 75% is unconscionable because an unconscionable term is not enforceable pursuant to section 6(3)(b) of the Act.

Section 3 of the Residential Tenancy Regulations defines unconscionable as follows:

> **3** For the purposes of section 6 (3) (b) of the Act *[unenforceable term]*, a term of a tenancy agreement is "unconscionable" if the term is oppressive or grossly unfair to one party.
>
> [Reproduced as written with my emphasis underlined]

I heard the rental unit is approximately 3,600 sq. ft. out of a total 4,500 sq. ft., which is approximately 80% of the finished space. The tenants in the rental unit also had at least as many occupants as the basement suite.

Although the estimation of 75% is likely not precise or exact, I find that when it is based on space and/or number of occupants it is a reasonable calculation and I find it is not “oppressive or grossly unfair” to the tenants. Therefore, I uphold the parties’ agreement that the tenants pay 75% of the hydro bills.

In light of the above, I award the landlords $933.36 for the January 22, 2018 hydro bill and $855.46 for the period up to March 20, 2018 as requested.

As for the $87.31 deducted from the November 2017 hydro bill by the tenants, I recognize that a tenant is not permitted to make deductions for repairs that do not constitute “emergency repairs” under section 33 of the Act. Nevertheless, I make no award to the landlords for $87.31 considering the following. The landlords testified that they were prepared to allow the deduction had the tenant provided a copy of the original receipts. Receipts showing the purchase of the thermostat and the dimmer switch on October 21, 2017 were included in the evidence before me and it would appear the landlords took issue with these receipts being a photocopy. In a letter the landlords wrote to the tenants on January 4, 2018 the landlords acknowledged receipt of photocopied receipts from the tenant but were of the position the photocopies were not acceptable. In a letter written by the landlords on January 24, 2018 the landlords indicated the tenants owed $933.36 for the January 2018 bill plus $87.31 for the remainder of the November 2017 bill and that they would issue a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* if the sum of $1,020.67 was not paid; however, on February 24, 2018 the landlords issued a 10 Day Notice indicating only $933.36 was outstanding. As such, I find there to be sufficient evidence to indicate that the landlords did eventually accept the photocopied receipts in satisfaction of the deduction the tenant made for installing a dimmer switch and thermostat from the November 2017 hydro bill.

Rent

A tenancy comes to an end pursuant to one of the ways provided under section 44 of the Act. The tenancy agreement provides that the parties had a month to month tenancy and the rental month started on the 15th day of every month. A tenant may end a month to month tenancy for any reason by giving the landlord at least one full month of written notice. A landlord may end a tenancy for cause by giving the tenant at least one full month of written notice.

The tenants did not give the landlords any written notice to end tenancy. The landlords issued two written Notices to End Tenancy to the tenants. The landlords gave the tenants a *1 Month Notice to End Tenancy for Cause* on January 29, 2018 with a stated effective date of March 15, 2018 which meets or exceeds the obligation to give the tenants at least one month of written notice. In addition, the landlords posted a *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* on February 24, 2018 with a stated

effective date of March 10, 2018 which meets or exceeds the obligation to give the tenants at least 10 days to move out.

An undisputed Notice to End Tenancy brings a tenancy to an end on the effective date of the Notice; however, the tenants disputed both of the Notices to End Tenancy given to them by the landlords. When a Notice to End Tenancy is disputed, a hearing is scheduled; the end of tenancy is suspended and the tenant may retain possession of the rental unit pending the conclusion of the hearing. The hearing was scheduled for April 11, 2018 meaning the landlords were not in a position to advertise for replacement tenants given the uncertain status of the tenancy. The tenants proceeded to vacate the rental unit after March 15, 2018 and returned possession to the landlords on March 21, 2018. There may have been some verbal notice or indication given by the tenant to the landlord orally; however, I am unsatisfied that it would have been sufficient notice for the landlords to find replacement tenants for March 22, 2018.

Considering the tenants remained in possession of the rental unit until March 21, 2018 which after the effective date of the Notices to End Tenancy and did not give the landlords at least one month of advance written notice I find the tenants responsible to pay rent that was payable on March 15, 2018. Therefore, I grant the landlords request to recover $2,250.00 from the tenants.

Alarm system

It is undisputed that the tenants were permitted to install their own security system and that the landlords' system was to be reinstalled at the end of the tenancy. It was undisputed that at least one of the motion sensors for the landlord's system was taken down during the tenancy and not reinstalled. The tenant claims that the one sensor that was removed as left at the property. At issue is the landlords' loss that resulted from the tenants actions, if any.

The landlords referenced an estimate to have the system returned to functioning manner. The tenant took exception to the security company technician describing a motion sensor as having been "stolen" by the tenant. I also question the impartiality of an estimate that includes a conclusion concerning the whereabouts of a missing sensor and what happened to it. As pointed out by the tenant, I am also of the view that an independent contractor making an estimate free from persuasion of the customer would not make such a conclusion. The tenant also described the landlord's system as being outdated and not working. Also, of consideration is the landlords did not proceed to have their security system repaired. All of these things considered, I find the landlords

did not satisfy me that the amount claimed represents a loss they incurred as a result of the tenant's actions or negligence and I dismiss this portion of their claim.

Damage to mouldings and walls

The condition inspection report prepared at the start of the tenancy indicates the walls and mouldings were in good condition and the walls newly painted.

Both parties provided video taken at the end of the tenancy and it is undisputed that there were a number of holes created during the tenancy from installing fire extinguishers, baby gate(s), and hanging shelves or artwork. There were also some areas where the drywall paper was peeled off.

The landlords were of the position the above constitutes damage; whereas, the tenant was of the position these areas largely constitute wear and tear.

As provided in Residential Tenancy Policy Guideline1, landlords should expect that tenants are going to create some holes from decorating and that is considered wear and tear. However, the policy guideline also provides that an excessive number of holes or large holes would be viewed as damage.

Upon review of the photographs and video evidence, I am satisfied that there are not an excessive number of holes. The sizes of some of the holes appear to be borderline large and I do accept that the areas where the drywall paper peeled off are not reasonable wear and tear. Accordingly, I find the tenants are responsible for some damage to the walls but the tenants are not responsible to bring the rental unit to a newly renovated condition as it was at the start of the tenancy.

As for the mouldings, the tenant submitted that some of the mouldings came off due to inadequate installation methods and the tenant's video appears to support that position.

All things considered, I find the landlords are entitled to some compensation for a few of the larger holes and peeled drywall paper. However, the landlord was only able to approximate the total number of hours spend making all repairs and repainting 12 walls which I do not hold the tenants liable to pay. Therefore, I find it appropriate to award the landlords a nominal award which I estimate to be $200.00.

Cleaning

Both parties provided videos of the property at the end of the tenancy and the landlords also provided photographs.

Based on the evidence, I accept that the oven required additional cleaning; there were black streaks in the bathroom, and the decks required cleaning; however, the rest of the rental unit appeared “reasonably clean” which is the tenants’ standard to meet.

Although I accept the decks required cleaning, the issue to determine is whether the tenants are responsible for power washing the deck. Policy Guideline1 does not specifically deal with washing of decks. However, I note that landlords are ordinarily responsible to clean the exterior of windows. Accordingly, I am of the view that where an exterior surface becomes dirty or grimy due to natural elements such as dust, pollen, tree debris, or the like, the cleaning of such things is a landlord responsibility. The tenant indicated he swept the deck in his video and dark areas are evidence in the videos provided to me by both parties. It is unclear to me whether the dark areas are the result of dirt, pollen or the like from the natural elements or dirt from the tenants or a combination of both. However, the dark stained areas appear all over which leads me to believe the dirt is from the natural environment. Therefore, I find the landlords have not satisfied me that the tenants are responsible for power washing the decks.

The landlords obtained an estimate to have the rental unit cleaned but they did the work themselves. Based on the dirty areas I hold the tenants responsible for I find it appropriate to award the landlords a nominal award. I award the landlords $100.00 for additional cleaning required.

Missing items

It is undisputed that the rental unit was equipped with a shower head and that it was no longer installed at the end of the tenancy. The tenant stated that he left it in the cabinet; however, I do not see it in the photographic or video evidence provided to me by either party. I am also of the view that had it remained at the property the tenant would have reinstalled it. Therefore, I find the tenant responsible for a missing shower head. The landlords referenced a receipt from a home improvement store in support of their claim for missing items; however, I cannot locate it in the documents uploaded. Accordingly, I award the landlords a nominal award of $25.00 for the missing shower head.

The landlords also asserted that the tenants took hoses and a manifold used for the landlords' blueberry farm operation from a shared storage space. The tenant denied doing so. However, in order for me to make an award to the landlords for these things, I would have to find a violation of the Act, Regulations or tenancy agreement. There is no mention of hoses or a manifold being provided to the tenants as part of the services or facilities provided to the tenants under their tenancy agreement or the move-in inspection report. Therefore, any theft of items that fall outside of the tenancy agreement is outside of my jurisdiction and would have to be resolved in the appropriate forum.

As for the items purchased by tenants in July 2017 which were deducted from utilities payable to the landlords, the landlords seek to recover the cost of items because the items purchased were not left behind at the end of the tenancy. Upon consideration of this evidence, I find I am satisfied the tenants failed to leave the hoses behind for the washing machine and they should have since they deducted the cost of the hoses from amounts owed to the landlords. However, I accept that the other items such as mouse and rat traps and plumbing adhesive are disposable after use. As for the assertion the tenant purchased multiple couplings, the tenants stated he did not. The receipt indicates a 1 ½" coupling – 60pk was purchased for $25.98. It is possible this means 60 pack but 60pk may mean something else but I find it not sufficiently clear to me. Therefore, I award the landlords the cost of the washing machine hoses, or $17.39.

Damage to dishwasher

The landlords provided evidence to demonstrate the dishwasher was new at the start of the tenancy and evidence to show the door panel was dented at the end of the tenancy. While I accept the dishwasher was still functional, as asserted by the tenant, I find the dents are beyond reasonable wear and tear especially considering the relatively short duration of this tenancy. Therefore, I award the landlords the cost to purchase a new panel and two hours of labour as requested, or $264.70 [calculated as $191.70 + tax + $50.00 for labour].

Filing fee, security deposit, pet damage deposit and Monetary Order

The landlords' claim had merit and I further award the landlords recovery of the $100.00 filing fee paid for their application.

I authorize the landlords to retain the tenants' security deposit and pet damage deposit in partial satisfaction of the amount awarded to the landlords with this decision.

In keeping with all of my findings and awards above, I provide the landlords with a Monetary Order calculated as follows:

Yard damage/removal of garden bed	$ 500.00
Unpaid utilities ($933.36 + $855.46)	1,788.82
Unpaid/Loss of Rent	2,250.00
Damage to walls/mouldings	200.00
Cleaning	100.00
Missing items ($25.00 + $17.39)	42.39
Damage to dishwasher	264.70
Filing fee	100.00
Compensation awarded to landlords	$ 4,745.91
Less: security and pet damage deposits	- 1,500.00
Monetary Order for landlords	$ 3,245.91

Conclusion

The landlords are authorized to retain the tenants' security deposit and pet damage deposit; and, the landlords are provided a Monetary Order for the balance of $3,245.91 to serve and enforce upon the tenants.

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: September 20, 2018

Residential Tenancy Branch