Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

On November 6, 2019, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the "*Act*"), seeking to apply the security deposit towards this debt pursuant to Section 38 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

This Application was originally set down for a hearing on May 22, 2020 at 1:30 PM but was subsequently adjourned three times, for reasons set forth in three Interim Decisions. The Landlord and both Tenants attended the final, reconvened hearing. All in attendance provided a solemn affirmation.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to monetary compensation?
- Is the Landlord entitled to apply the security deposit towards this debt?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on September 12, 2015 and that the tenancy ended when the Tenants gave up vacant possession of the rental unit on November 1, 2019. The Landlord advised that rent was established at “around” $2,803.00 per month but the Tenants advised that it was $2,878.00 per month. Both parties agreed that rent was due on the first of each month and that a security deposit of $1,250.00 was also paid.

All parties agreed that a move-in inspection report was conducted on September 11, 2015. They also agreed that two, separate copies of this report were filled out and the Tenants were provided with one copy. A copy of this report was submitted as documentary evidence by both parties.

All parties agreed that a move-out inspection report was conducted on November 1, 2019. However, Tenant S.G. advised that the Landlord’s copy of the move-out inspection report that was submitted as documentary evidence is different from their copy that they submitted. He stated that the Landlord was “making things up during the walkthrough” and that he did not sign the report as he did not agree to what she had documented.

The Landlord advised that the move-in inspection report was written in black ink and it is “possible” that the two separate copies of this report were “not exactly identical.” She stated that the move-out inspection report was filled in with blue ink and that she “did write one thing in there.” She also submitted a copy of the move-in inspection report of the next tenants to support her position that the Tenants did not leave the rental in a re-rentable state.

All parties agreed that the Tenants’ forwarding address in writing was provided to the Landlord on the move-out inspection report on November 1, 2019.

The Landlord is seeking compensation in the amount of **$700.00** for the cost of a replacement part on the fireplace and **$300.00** as the cost to install this part. She advised that the Tenants broke the glass panel of the fireplace in 2017 and acknowledged that they did so in a text that was submitted as documentary evidence.

She stated that a home inspection was conducted prior to the start of the tenancy and after the Tenants vacated the rental unit, and the inspector recommended replacement of the entire fireplace as it was not feasible to replace just the glass. She submitted only portions of these inspection reports as documentary evidence. She also stated that the brackets for this glass panel were also missing. She advised that she purchased the home in 2015 and the fireplace was installed sometime between 2010 and 2014. She referred to pictures submitted to demonstrate the damage. In addition, she cited a print-out of the estimated cost of replacement parts, as well as her estimated cost for installation to support her claim totalling $1,000.00.

The Tenants acknowledged being responsible for breaking the glass. They submitted a print-out directly from the manufacturer for the replacement cost of the glass as being $192.26. On the contrary, the Landlord did not submit any documentation to corroborate the price of the replacement of the glass. Furthermore, the Landlord "made up" the cost of the installation of this as she has not submitted any documentation to support this amount. They stated that the installation of this glass is easy.

The Landlord is seeking compensation in the amount of **$254.45** for the cost of replacing two lost garage door remote controls and for reprogramming the garage door. She stated that she had one remote control and the Tenants were provided with a second, but the Tenants' remote was stolen during the tenancy. As it is not possible to purchase one remote and program it to be compatible with her remote and the garage door, two new remotes must be purchased. She submitted an estimate for the cost to purchase two new remote controls and to reprogram the garage door accordingly.

The Tenants acknowledged that their remote control was stolen and referred to the text messages, that the Landlord submitted as evidence, where the Landlord never asked them to replace the remote control. Rather, the Landlord offered to let them use hers instead. With respect to the estimate that the Landlord submitted, they noted that part of the cost assessed was for "general maintenance."

The Landlord is seeking compensation in the amount of **$276.00** for the cost of cleaning fees because the Tenants did not leave the rental unit in a re-rentable state. She stated that the stove, oven, sink, and hood fan were all dirty, that there were stains on the counter-top, and that many fingerprints were left behind. The amount that she is seeking is based on an estimate provided by a cleaning company and this amount covers the Landlord's time for cleaning plus the time spent by her new tenants. She stated that she spent three to four hours cleaning but then changed her testimony by indicating that she was "not sure exactly" how many hours she spent cleaning. As well, she was not sure how many hours the new tenants spent cleaning. She submitted that she washed the walls and floors, she cleaned grime and streaks, she dusted, and she cleaned the outside.

She stated that the new tenants allowed her into the rental unit to view the condition and to take pictures, and she referenced the pictures submitted as documentary evidence to support her position on the condition of the rental unit. She also cited the documented state of the rental unit on the move-out inspection report and the move-in inspection report of the new tenants to corroborate the deficiencies that needed to be addressed.

A.G. advised that they spent 20 hours cleaning the rental unit with another person and she pointed to the move-out inspection report where they disagreed with the Landlord's noted condition of the rental unit. She referenced a notarized letter submitted as evidence supporting their position that they cleaned the rental unit, and she directed me to pictures taken at the end of the tenancy regarding the cleanliness of the rental unit. However, she did take responsibility for them not cleaning the hood range. S.G. advised

that the Landlord made up things on the move-out inspection report and when he brought these to her attention, she blatantly fabricated issues and lied.

The Landlord is seeking compensation in the amount of **$283.05** for a broken freezer handle and **$87.66** for a broken removable plastic shelf. She stated that the Tenants acknowledged breaking the handle and that they offered to fix it. She stated that the new tenants found the broken shelf after they moved in. She referred to the printed estimates of the replacement cost of these items, the pictures submitted, text messages from the new tenants, and the independent home inspection reports to support her position that the Tenants broke these items. She stated that she has not fixed these items yet and it "does not impact the new tenants much."

The Tenants acknowledged that the handle fell off, but they believe it was due to wear and tear. They suggested that the appliances in the home were not brand new as they were dented and scratched already. As well, the shelf was not noted on the move-in or move-out inspection report. S.G. stated that the handle fell off a month or two prior to when they gave up vacant possession of the rental unit. A.G. stated that the plastic that connects the handle to the fridge is what broke. She testified that she showed the Landlord the broken parts and there was no further conversation about this. She reiterated that the Landlord has still not fixed this issue.

The Landlord is seeking compensation in the amount of **$89.50** for damage to the sprinkler system. She stated that this system was working at the start of the tenancy as per the home inspection. However, the control panel was damaged at the end of the tenancy as wires were hanging off the wall, the cover was missing, and parts of it appeared to be dismantled. She referred to pictures of the Tenants' property in the garage and she speculated that the heavy equipment, ladder, and bins were stored up against the control panel. She also submitted a text message regarding using the sprinkler and an estimate from an irrigation company, for the cost to repair this system, to support her position on this claim.

A.G. advised that there was nothing stored on this panel and that the system was operational when they left. She stated that the cord that is dangling in the picture is the power cord that simply needs to be plugged in. She stated that this item is not noted on the move-out inspection report and that they offered to show the Landlord how to use this system. Furthermore, she submitted that the system needs to be flushed yearly, it has never been done before, and this may be the reason it is not working.

The Landlord is seeking compensation in the amount of **$299.99** because the components left for the built-in vacuum system do not match the original equipment and are not compatible with the existing system. She stated that this system was functional at the start of the tenancy as per the home inspection. However, this issue was not noted on the move-out inspection report because she only found out about it after the new tenants advised her of this problem. She is not sure how old this vacuum system is, but she submitted the user's manual, pictures of the system and the components that

were left, and a print-out of the cost of replacement parts to support this claim for damages.

A.G. advised that the hose that was left was the same hose that was provided at the start of the tenancy. She stated that they had a conversation with the Landlord at the start of the tenancy as there was no vacuum attachment provided, so they purchased one on their own and left it at the end of the tenancy. S.G. advised that they lived there for four years and it was functioning fine. As well, he noted that the Landlord has not submitted any receipts to justify this cost and he questioned what the new tenants are doing, if this system is not functional anymore.

The Landlord advised that she does not recall any conversation at the start of the tenancy about any parts for the vacuum system. She stated that all the components for this system were provided at the start of the tenancy and were matching. The vacuum head that was left at the end of the tenancy does not fit with the existing system and it does not work anymore. She referred to text messages submitted between her and the new tenants regarding the vacuum and she stated that because this system did not work, the new tenants bought their own vacuum.

The Landlord is seeking compensation in the amount of **$400.00** because the Tenants left chemical spills and paint stains on the garage floor and on the sidewalk. She stated that some of the oil and chemical stains in the garage were from a motorcycle of one of the Tenants' friend's that they let park in the garage. She referenced before and after pictures of the stains and an estimate of what it would cost to clean these areas. She stated that this is not wear and tear and the Tenants are required to restore the rental unit to the original condition. She advised that she has not done any of the power washing to clean the sidewalk as she had ankle surgery and was not able to do it herself or to call someone in to do it for her. As well, this was not done because this type of work is generally reserved for the spring or summer.

A.G. questioned why these issues were noted on the Landlord's move-out inspection report but not the Tenants' copy. She referenced some of the pictures that the Landlord submitted as evidence and noted that those pictures depict sidewalk chalk or washable paint, which can be easily washed away. She stated that every spring, they would power wash the sidewalk, but they acknowledged that they only swept the garage. She testified that they washed the sidewalks at the end of the tenancy and that the Landlord's pictures were taken during the tenancy.

They advised that the motorcycle belonged to another tenant and that the Landlord gave this person permission to store it in the garage. Furthermore, they stated that the Landlord allowed this other tenant to store some of his property in the garage and that most of the equipment in the garage belonged to this other person. Finally, they stated that they did not use or spill any chemicals in the garage.

The Landlord disputed the statement that she allowed this other tenant to use part of the garage as she wanted to maintain half of the garage for her own use. She stated that it was the Tenants who allowed this other tenant to use the garage.

The Landlord is seeking compensation in the amount of **$350.00** because the Tenants caused damage to the dishwasher, the warming oven, and the microwave. She stated that the she purchased two, identical dishwashers. One was for herself and one was for the rental unit. She stated that she never had a problem with hers; however, the Tenants reported issues of theirs clogging during the tenancy. She referenced pictures submitted as documentary evidence showing that there was “coloured debris” found near the filter of the dishwasher. She stated that the new tenants have been using the dishwasher, but it has clogged a “couple of times” and they have complained about it via text; however, she has not fixed this issue yet. She speculated that the Tenants put inappropriate materials in the dishwasher that were responsible for clogging it, and part of the cost she is seeking is for the labour of a repair person to open the dishwasher and remove this debris.

She then stated that the warming oven door or drawer is bent and misaligned so it will no longer warm properly or retain heat. She advised that the “door is misaligned” or that the “tracks are misaligned” but she does not know what the exact problem is. She stated that the new tenants reported this problem and that they do not use it. She noted that this issue was noted on the move-in inspection report of the new tenants. She also mentioned that it was her belief that crayons were stored in this warming rack and she questioned why this would have been done.

With respect to the microwave, she stated that it was working perfectly at the start of the Tenants’ tenancy, but the new tenants advised her that it was not working. She does not know why it is not working anymore, but she has provided them with a replacement microwave in the meantime. She stated that she contacted a repair person who advised her that it would cost $350.00 to repair; however, she has not submitted any evidence to support this cost or to demonstrate what is wrong with the microwave.

A.G. advised that these three issues were not noted on the move-out inspection report and that the appliances were in perfect working order at the end of the tenancy. She stated that she could not speak to what the debris was that was found in the dishwasher. Furthermore, she stated that the Landlord’s evidence of the text message from the new tenants about the microwave displays an error message. She advised that they attempted to contact the Landlord over these alleged issues; however, the Landlord rejected these calls.

The Landlord is seeking compensation in the amount of **$300.00** because the Tenants were responsible for yard maintenance as per the tenancy agreement, but they left the yard a mess at the end of the tenancy. She stated that the Tenants left underwear and a hockey stick in the yard and that they did not clean up the yard prior to vacating. She submitted pictures to support the condition of the yard at the end of the tenancy. She

stated that the new tenants refused to do this yard maintenance, so she did it herself. She estimated that it took her six to seven hours of her own time to clean the yard and that she bagged 15 to 20 bags of yard waste.

S.G. advised that he regularly cut the grass every week and that they hired a professional gardener in the fall to maintain the yard. He stated that they gave up vacant possession of the rental unit in the fall and that the property is surrounded by trees, so leaves would have fallen as they were moving out and afterwards as well, so it would not have been possible to continuously clean up all the debris. He stated that he did not know who the hockey stick belonged to. He also questioned the Landlord's claim that she did the yard maintenance herself as she had recently shattered her ankle.

The Landlord advised that she had ankle reconstruction surgery eight months prior to the Tenants giving up vacant possession of the rental unit.

Finally, the Landlord is seeking compensation in the amount of **$200.00** to remove garden beds, that the Tenants built without permission, and to replace the area with sod. She stated that the Tenants advised her that another tenant built these beds; however, she cited a letter from the Tenants which she says discredits them as they admitted that this other tenant did not install these beds. She submitted pictures of these garden beds, she stated that they are currently still there, and she stated that she was quoted this amount to have sod put down to fix this problem. However, she could not indicate where or if she submitted an estimate for the cost of this work.

S.G. advised that he walked the property with the Landlord at the end of the tenancy, that he told her he installed them, and that she commented on how nice they were. He stated that these garden beds were half the size that the Landlord estimated, that it cost him $500.00 to build them, and that he would gladly remove them if the Landlord did not want them. However, he stated that the Landlord ignored his requests to deal with them. He confirmed that he did not have written authorization to build these garden beds.

A.G. advised that they contacted the Landlord at least 30 times but the Landlord refused to answer or respond. She stated that the Landlord wanted to keep these garden beds at the end of the tenancy.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 23 of the *Act* states that the Landlord and Tenants must inspect the condition of the rental unit together on the day the Tenants are entitled to possession of the rental unit or on another mutually agreed upon day.

Section 21 of the *Residential Tenancy Regulations* (the "*Regulations*") outlines that the condition inspection report is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless either the Landlord or the Tenants have a preponderance of evidence to the contrary.

Section 35 of the *Act* states that the Landlord and Tenants must inspect the condition of the rental unit together before a new tenant begins to occupy the rental unit, after the day the Tenants cease to occupy the rental unit, or on another mutually agreed upon day. As well, the Landlord must offer at least two opportunities for the Tenants to attend the move-out inspection.

Sections 24(2) and 36(2) of the *Act* state that the right of the Landlord to claim against the security deposit for damage is extinguished if the Landlord does not complete the condition inspection reports or provide a copy as per the *Regulations*.

Regarding the move-in and move-out inspection reports, as all parties agreed that these reports were conducted in accordance with the *Act* and *Regulations*, I find that the Landlord did not extinguish her right to claim against the deposit.

However, with respect to the validity of the move-out inspection report, I note that the parties had differing accounts of what was noted on the report when the Tenants signed it on November 1, 2019. When reviewing the copies of the move-out inspection report submitted by the Landlord and by the Tenants, it is clear to me that there are additional notes on the Landlord's copy that do not appear on the Tenants' copy, which has led to the difficulty in determining what was actually noted on the report at the time of the move-out inspection. I can reasonably infer that these were, more likely than not, written onto the Landlord's copy after the move-out inspection report was completed, as opposed to removed from the Tenants' copy after the move-out inspection report was completed. Based on the circumstances, I find that the Landlord has been negligent in honestly completing this report, and as a result, I place little weight on the accuracy of what has been documented on the move-out inspection report submitted before me.

Section 38(1) of the *Act* requires the Landlord, within 15 days of the end of the tenancy or the date on which the Landlord receives the Tenants' forwarding address in writing, to either return the deposit in full or file an Application for Dispute Resolution seeking an Order allowing the Landlord to retain the deposit. If the Landlord fails to comply with Section 38(1), then the Landlord may not make a claim against the deposit, and the Landlord must pay double the deposit to the Tenants, pursuant to Section 38(6) of the *Act*.

Based on the undisputed evidence before me, I am satisfied that the Landlord had the Tenants' forwarding address in writing on November 1, 2019. As the tenancy ended on this date as well, I find that this is the date which initiated the 15-day time limit for the Landlord to deal with the deposit. The undisputed evidence before me is that the

Landlord made this Application to claim against the deposit on November 6, 2020. As the Landlord did not extinguish her right to claim against the security deposit and as she complied with the requirements of the *Act* by applying within the legislated timeframes, I am satisfied that the doubling provisions do not apply in this instance.

With respect to claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Section 67 of the *Act* allows a Monetary Order to be awarded for damage or loss when a party does not comply with the *Act*.

It should be noted that throughout the hearings, each head of claim in the Landlord's Monetary Order Worksheet was addressed individually, whereby the Landlord was provided with an opportunity to address a specific claim, and then the Tenants were provided with an opportunity to respond. Once all submissions were made on that particular claim, we would move on to the next one. However, the main reason for the significant number of reconvened hearings was due to the Landlord's inability to maintain focus on the one claim that was being addressed as she would routinely go on unrelated tangents and bring up other irrelevant issues, or attempt to discuss past claims that were already addressed. She would continuously need to be reminded to provide relevant testimony on the specific claim that was being addressed at the time. This was primarily the reason for the extensive adjournments on this file.

I also find it important to note that her documentary evidence was presented in a manner similar to how she provided testimony. While she submitted a vast amount of documentary evidence, much of it was disorganized, with various handwritten notes and comments that were difficult to follow or decipher. Furthermore, many of the pictures were not clear, and some documents, correspondence, or reports that she chose to rely on were not submitted in their entirety. An example of the Landlord's confusing or irrelevant submissions would be an assortment of pictures she submitted which appear to depict family pictures of the Tenants, which have no bearing on her claims of damage. I find that the Landlord's disjointed and unorganized submissions cause me to question the validity and reliability of her claims on the whole, as it appeared as if she was attempting to make excessive, unnecessary, exaggerated, or unsubstantiated claims.

Regarding the Landlord's claim for compensation in the amount of $700.00 and $300.00 for the broken fireplace glass, the consistent and undisputed evidence is that the Tenants were responsible for breaking this glass. When reviewing the totality of the evidence before me, I am not satisfied that the Landlord has provided sufficient evidence that the entire fireplace needed to be replaced, especially given that the

Tenants have provided evidence from the manufacturer demonstrating that a replacement glass panel is available for purchase. As such, I dismiss the Landlord's claim for $700.00; however, I do grant her a monetary award in the amount of **$192.26** as the replacement cost of this glass panel. As the Landlord has provided insufficient evidence to support the cost of installation of this panel, I dismiss this claim in its entirety.

With respect to the Landlord's claim for compensation in the amount of $254.45 for the cost of replacing the lost garage door remote control and for reprogramming the garage door, the consistent and undisputed evidence is that the Tenants were responsible for losing the remote that was provided to them at the start of the tenancy. However, I find it important to note that the estimate that the Landlord submitted indicates that the cost of the remotes is "to be determined" and that part of this expense is for general maintenance. As the burden of proof rests on the Landlord to provide evidence to support the direct cost of the claims, I am not satisfied that this estimate accurately demonstrates the specific cost for replacing the remotes, nor does it indicate the actual service cost for reprogramming the remotes as this amount is combined with general maintenance that I do not find the Tenants should be responsible for. As the costs are not adequately outlined in this estimate, I grant the Landlord a monetary award in the amount of **$50.00**, which I have determined to be a reasonable cost for replacement of the lost remote control. Furthermore, I find that this amount is commensurate with what the Landlord had established given her evidence submitted.

Regarding the Landlord's claim of compensation in the amount of $276.00 for the cost of cleaning fees, the purpose of the inspection reports is so that the Landlord and the Tenants can inspect the rental unit together and document the condition at the beginning and the end of the tenancy. However, as noted above, I have given little weight to the veracity of the move-out inspection report. Furthermore, when reviewing the Landlord's pictures, I note that those pictures are not clear and are blurry, which may have been attributed to them being scanned pictures. As a result, it is difficult to determine what deficiencies the Landlord is attempting to illustrate.

In addition, when I compare the Tenants' move out inspection report to the new tenants' move-in report, I note that some notes are in the exact same spot and handwriting and some of those notes have been crossed off and/or added to in the new tenants' move-in report. It appears to me as if the Landlord has used an identical copy of the Tenants' move-in report as the basis for the new tenants' move-in report, and then added to it when conducting the move-in inspection with the new tenants. It is not clear to me why the Landlord did not use a fresh report for this new move-in inspection report, and I find that further complicates a determination of the actual condition of the rental unit. Moreover, I find that this further illustrates the Landlord's scattered, disorganized, or careless approach in taking care to document these matters accurately. Based on these factors, I am not satisfied that the Landlord has submitted sufficient evidence to establish her claim for cleaning. However, as the Tenants did take responsibility for not

cleaning the hood range, I grant the Landlord a monetary award in the amount of **$50.00** to satisfy this issue.

With respect to the Landlord's claim for compensation in the amount of $283.05 for a broken freezer handle and $87.66 for a broken removable plastic shelf, when reviewing the totality of the evidence, I am not satisfied that these broke due to normal wear and tear. However, I do note that the Landlord advised that this refrigerator was approximately 10 years old. Policy guideline #40 outlines the approximate useful life of this appliance as approximately 15 years. As the Landlord has already benefitted from a significant portion of this appliance's useful life, I grant the Landlord a monetary award in the amount of **$100.00**, which is equivalent to the estimated value of these items, less depreciation due to age.

Regarding the Landlord's claim for compensation in the amount of $89.50 for the damaged sprinkler system, I do not find that the Landlord has provided sufficient evidence that the sprinkler system is not actually working. While she submitted an email from an irrigation company, this only notes the fee to assess the sprinkler system and does not confirm that this system is not functioning. In addition, based on the pictures she submitted, it appears as if the cover panel has simply fallen off and the wire hanging down could conceivably be the power cord. As I am not satisfied from the Landlord's evidence that this system is damaged, I dismiss this claim in its entirety.

With respect to the Landlord's claim for compensation in the amount of $299.99 for the purchase of new built-in vacuum system accessories, I find that there is conflicting testimony with respect to this issue. However, when I compare the Landlord's copy of the move-in inspection report to the Tenants' copy of the move-in inspection report, I note that beside the built-in vacuum note, it says "good working condition" on the Landlord's copy but not the Tenants'. It is unclear to me how this note would appear on the Landlord's copy only, and based on my doubts about the reliability of these reports, I find that this discrepancy causes me to be skeptical of the validity of this claim.

Furthermore, I do not find that the submitted list of text messages between the Landlord and the new tenants supports the Landlord's claims that they complained about this vacuum system not working as this list of messages appears to be a screen shot of the Landlord's communications with the new tenants. However, it does not show the actual content of those messages. As a result, I am not satisfied that the Landlord has established this claim and I dismiss it in its entirety.

With respect to the Landlord's claim for compensation in the amount of $400.00 because the Tenants left chemical spills and paint stains on the garage floor and on the sidewalk, when reviewing the pictures of the sidewalk, I find it important to note that these are not clear and it is difficult to see the staining that the Landlord is referring to. In addition, it appears as if some of these stains might be as a result of sidewalk chalk, which I can reasonably infer is not permanent damage and is easily fixed.

However, with respect to the stains in the garage, there has been contradictory testimony provided. The Landlord claims that the Tenants permitted the downstairs tenant to store his motorcycle in the Landlord's side of the garage, which I find is corroborated by the Tenants' letter dated December 5, 2019. On the contrary, during the hearing the Landlord admitted to wanting to keep her side of the garage for her own use. I find it reasonable to conclude that if the Landlord had an issue with the storage of this equipment in her side of the garage, she should have dealt with this at the time and mitigated these issues. Consequently, I am not satisfied that the Landlord has established a claim for any staining on the Landlord's half of the garage.

Regarding the Tenants' half of the garage, I do not find that the evidence provided is entirely clear in demonstrating which side of the garage the staining is on. As such, I do not find that the Landlord has provided sufficient or compelling evidence to establish this claim, and I dismiss it in its entirety.

Regarding the Landlord's claim for compensation in the amount of $350.00 for damage to the dishwasher, the warming oven, and the microwave, I acknowledge that the consistent evidence is that during the Tenants' tenancy, there appeared to be clogging of the dishwasher, and this continues to happen currently. Based on the evidence before me, I find it unlikely that the dishwasher would have had this issue so frequently had it been used ordinarily, so I find it more likely than not that the issues have been caused by this unusual debris that has been found in the filter. However, there is no specific cost associated with repairing this issue that has been substantiated with evidence. Furthermore, as the tenancy ended so long ago, it is not clear to me why it has not been repaired, nor is it clear to me why the current tenants have to continually deal with a clogging dishwasher. This causes me to question the severity of the issue. Regardless, I find it more likely than not that the dishwasher has been clogging due to debris found in the filter. However, as there is limited evidence to support the actual cost to fix this, I find that the Landlord is granted a monetary award in the amount of **$75.00** to have this issue rectified.

With respect to the drawer of the warming oven, while the Landlord has claimed that there is something wrong with this drawer, I am not satisfied that she has provided sufficient evidence to establish what the exact problem is. Furthermore, while she claimed that this was noted on the new tenants' inspection report, from the evidence provided, it appears as if the new tenants discovered this after the tenancy started so it is not clear how this would have been noted on their move-in inspection report. As a result, I am not satisfied that the Landlord has adequately established this claim, and I dismiss it in its entirety.

Finally, regarding the microwave that the Landlord alleges no longer works, I do not find that the Landlord has provided sufficient evidence to demonstrate what is actually wrong with the microwave. While there appears to be an error message displayed on the microwave, I am not satisfied that the Landlord has investigated this to determine what this error message means or what the repair of this would cost, if it is indeed

broken as a result of the Tenants' negligence. As such, I dismiss this claim in its entirety as well.

With respect to the Landlord's claim for compensation in the amount of $300.00 for the cost of yard maintenance, I accept from the evidence provided that the yard may not have been cleaned sufficiently at the end of the tenancy. However, I also find that based on the time of year, there also could have been a continual downfall of natural debris that would have been left behind ordinarily. As such, I find that the Landlord should be granted a monetary order in the amount of **$100.00** to cover the cost of returning the yard to a re-rentable condition.

In regard to the Landlord's final claim for compensation in the amount of $200.00 for removal of garden beds that the Tenants built without permission, and to replace the area with sod, the consistent and undisputed evidence is that the Tenants installed garden beds without the Landlord's written consent and did not return the property to the same condition it was rented to them in. Had the Tenants wanted to keep these beds for themselves, they should have taken the materials for the beds with them prior to vacating the rental unit, and then restored the lawn. However, they did not do this. As there is no direct evidence from the Landlord of the cost to remedy this issue, I grant the Landlord a monetary award in the amount of **$125.00** as a reasonable cost to remove the garden beds and to return the lawn to its original condition.

As the Landlord was partially successful in her claims, I find that the Landlord is entitled to recover $50.00 of the $100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain a portion of the security deposit in satisfaction of the amount awarded.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenant a Monetary Order as follows:

Calculation of Monetary Award Payable by the Landlord to the Tenants

Cost to replace fireplace glass	$192.26
Lost remote control	$50.00
Cleaning	$50.00
Replacement of fridge parts	$100.00
Dishwasher repair	$75.00
Yard maintenance	$100.00
Lawn repair	$125.00
Recovery of filing fee	$50.00
Security deposit	-$1,250.00
TOTAL MONETARY AWARD	**$507.74**

Conclusion

The Tenants are provided with a Monetary Order in the amount of **$507.74** in the above terms, and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: August 23, 2020

Residential Tenancy Branch