



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, OLC, FFT, MNDCT

Introduction

This hearing was convened by way of conference call in response to an application for dispute resolution filed by the Tenant on May 25, 2020 (the "Application"). The Tenant applied as follows:

- For an order suspending or setting conditions on the landlord's right to enter the rental unit;
- For an order that the landlord comply with the Act, regulation and/or the tenancy agreement;
- For compensation for monetary loss or other money owed; and
- For reimbursement for the filing fee.

This matter came before me June 18, 2020 and was adjourned. An Interim Decision was issued June 22, 2020. This decision should be read with the Interim Decision.

The Tenant appeared at the hearings with the witnesses. The Landlord appeared at the hearings with her son, K.T., to assist. The Landlord appeared for Landlord M.T.

Further to the Interim Decision, the only issues before me are:

- Whether the Tenant is entitled to compensation for monetary loss or other money owed; and
- Whether the Tenant is entitled to the filing fee.

In the Interim Decision, I allowed the parties to submit further evidence relating to the rent increase issue. The Interim Decision specifically states at page three:

The parties are permitted to submit further evidence in relation to the rent increase issue as set out above. The parties are not permitted to submit further evidence in relation to the other issues raised.

The Landlord submitted the tenancy agreements between the parties prior to the adjourned hearing. The Landlord also submitted the rental application. The Tenant confirmed receipt of the tenancy agreements. I do not find the rental application relevant and have not considered it.

The Tenant submitted the following prior to the adjourned hearing:

- An email sent to the Landlord June 18, 2020 with the updated Monetary Order Worksheet;
- Food delivery receipts;
- A photo relating to mice;
- A worksheet outlining illegal rent increases; and
- A Monetary Order Worksheet.

The June 18, 2020 email is not relevant. As stated in the Interim Decision, it was determined at the first hearing which Monetary Order Worksheet would be considered.

The food delivery receipts and photo relating to mice are not relevant to the rent increase issue and are not admissible further to the Interim Decision which stated that the parties were only permitted to submit evidence relating to the rent increase issue.

The Landlord said they did not receive the worksheet outlining illegal rent increases. I have not relied on this document as it is not necessary to do so. I also note that I will only consider the amount sought for illegal rent increases as set out in the Monetary Order Worksheet before me for the first hearing as the Tenant was not permitted to amend the Application as stated in the Interim Decision.

In relation to the Monetary Order Worksheet submitted prior to the adjourned hearing, again, I will only consider the Monetary Order Worksheet that was before me for the first hearing.

I explained the hearing process to the parties. The parties and witnesses provided affirmed testimony.

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered all oral testimony of the parties and all admissible documentary evidence. I have only referred to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Tenant entitled to compensation for monetary loss or other money owed?
2. Is the Tenant entitled to reimbursement for the filing fee?

Background and Evidence

The Tenant sought the following compensation:

Item	Description	Amount
1	Security deposit for new apartment	\$850.00
2	Hotel bill	\$182.05
3	Meals (delivery service)	\$600.00
4	Rent for new apartment (\$1,700.00 per month)	\$20,400.00
5	Furniture	\$2,340.79
6	Rent difference in 2019 and 2019	\$1,164.00
7	Filing fee	\$100.00
	TOTAL	\$25,636.84

The Landlord submitted five written tenancy agreements with the following terms and rent amounts:

- September 01, 2016 ending August 31, 2017 rent \$1,250.00
- September 01, 2017 ending February 28, 2018 rent \$1,250.00
- March 01, 2018 ending July 31, 2018 rent \$1,250.00
- August 01, 2018 ending July 31, 2019 rent \$1,325.00
- July 31, 2019 ending July 31, 2020 rent \$1,404.50

Rent is due on the 20th day of each month.

The Tenant testified that she vacated the rental unit May 31, 2020.

#1 Security deposit for new apartment \$850.00

The Tenant provided the following testimony and submissions.

The Tenant lives in a suite below the Landlords. The Landlords did construction in their residence, the upper suite. The Landlords did not provide four months notice that they were going to do construction. The Tenant was not prepared for the construction. The Tenant gave notice ending the tenancy and moved out because of the construction. The Tenant had health issues and her son has autism. The Tenant could have moved out if the Landlords gave notice of the construction. The Tenant was not prepared to move out. The Tenant had to find funds to move to a new apartment. The Tenant did not know about the construction in advance, so it was difficult to get the funds together for a security deposit.

The construction started April 28, 2020. At the end of May, there were workers outside the rental unit because of the construction. There was construction on the path to the rental unit. In the third week of May, there were ladders and workers present. Workers came into the rental unit to fix a leak three or four times over multiple days. This was during the pandemic.

The Landlords breached the Tenants' right to quiet enjoyment. The Tenant and her family did not have privacy during the construction. The Tenant and her family have dust and pollen allergies. The Tenant's son could not handle the noise. The Tenant and her family had to cover their beds due to dust. The Tenant tried to communicate with the Landlords. The construction included drilling and heavy banging. Parts of the ceiling would come off due to the banging. Light bulbs popped out due to the banging.

The Tenant relied on the following evidence:

- Photos taken during the construction (the Landlords received these)
- Text evidence that workers were coming to fix the ceiling and furnace (the Landlords received these)
- Messages about the disturbance (the Landlords received these)
- Tenancy agreement for new apartment showing the security deposit and receipts (the Landlords did not receive these)

The Landlord and K.T. provided the following testimony and submissions.

There was no construction at their residence, it was a simple renovation of their floor and counter. They ripped up the carpet and put in laminate flooring. They replaced their counters. They attended the rental unit and never saw dust. The photos show dirt and grime from the rental unit not being cleaned. The Tenant never mentioned light bulbs falling out and there is no evidence of this occurring. They replaced cabinet doors and the Tenant complained about noise from the drill.

The Landlords notified the Tenant about the renovations April 30, 2020. The texts show this and show the Tenant's children were at school and barely affected.

The workers only went into the rental unit once for five minutes. There were no renovations done in front of the rental unit, supplies were kept in front of the house. Equipment was not in the path to the rental unit. The renovations were done by the time the Tenant vacated. The renovations could have been done in one week. The Landlords realized the Tenant was uncomfortable so talked to the Tenant about reaching an agreement where the Tenant could reduce rent for the month by 50% and for the Tenant to stay in a hotel for three days and the Landlords would push to get the renovations done. The Tenant declined and decided to camp outside in the yard. The Landlords provided the Tenant with a portable stove top, tarp and air mattress. The Landlords did everything they could to please the Tenant. The Tenant did not pay the last month of rent or hydro.

There were two workers doing the flooring and two workers doing the counters. The flooring people were at the residence for three or four days in total. The counter people were at the residence for one day. The work was done between 9:00 a.m. and 6:00 p.m. based on a conversation with the Tenant and city requirements. The work started May 01, 2020 and finished May 14 or 15, 2020 but was sporadic during this time.

The Tenant provided the following testimony and submissions in reply.

The noise and drilling started April 28, 2020 which is shown in the texts. The Tenant was not comfortable going to a hotel during the pandemic so camped outside because of the noise and dust. She could not cook and had to cook outside under a covered area. The parties started discussing the rent reduction April 28, 2020. The Tenant told the Landlords she had to move out because of the allergies and health issues and so the rent reduction did not apply because she was moving out either way. She did not pay rent May 20, 2020 because she had to find a security deposit. She had to bring her mattress out to camp during the rain. Later that day the Landlords provided an air mattress.

The Tenant confirmed she decided two days into the construction that she was going to move out.

The Tenant confirmed that items one through five on the Monetary Order Worksheet all flow from the breach of the right to quiet enjoyment.

The Tenant testified that there was also a mouse problem starting March 30, 2020. The Tenant testified that this contributed to her decision to move out.

#2 Hotel bill \$182.05

The Tenant testified that she had to book a hotel to get away from the construction and did so from May 10 to 11, 2020.

The Tenant relied on the following evidence:

- The evidence referred to above
- A photo of the hotel bill (the Landlords did not receive this)

K.T. disputed that the Landlords should compensate the Tenant for this and said he does not understand why the Tenant says she did not agree about the half month's rent. K.T. also testified that the Tenant never let them know she went to a hotel. He testified that the Landlords never saw the Tenant leave the house and are sceptical about her having gone to a hotel.

#3 Meals (delivery service) \$600.00

The Tenant sought this amount on the basis that she had to order delivery because she could not cook in the rental unit due to dust and because of the affect the noise had on her son. The Tenant testified that her own health problems prevented her from cooking in the house.

The Tenant had not submitted any receipts for this for the first hearing. The Tenant did submit receipts prior to the adjourned hearing. These are not admissible as explained above.

K.T. testified as follows. They saw the Tenant's son outside playing while the Tenant was inside doing her own thing. They never saw dust in the rental unit. They provided the Tenant a stove to cook on.

K.T. disputed that the Tenant would have reasonably spent \$600.00 on meals.

#4 Rent for new apartment (\$1,700.00 per month) \$20,400.00

The Tenant testified that the new apartment she rented was above her budget and she could have found somewhere within her budget if she had been prepared to move.

K.T. testified that the renovation was complete prior to the Tenant vacating. K.T. disputed that the Tenant moved due to safety or health issues given the renovations were done when the Tenant vacated.

#5 Furniture \$2,340.79

The Tenant sought this amount because she could not bring some of her furniture to her new apartment given the size of it. The Tenant also testified that she had to throw furniture out because it was dusty. The Tenant further testified that her mattress got wet from being outside in the rain.

The Tenant acknowledged her furniture was not ruined, just dusty.

The Tenant relied on a photo of a receipt in evidence. The Landlords had not received this.

K.T. testified as follows. The Landlords helped the Tenant cover her furniture. The Tenant took her mattress outside herself.

#6 Rent difference in 2018 and 2019 \$1,164.00

The Tenant took issue with the rent increases between the written tenancy agreements. The Tenant submitted that they were over the allowable rent increase percentage. The Tenant testified that she did not get notice of the rent increases and they were done through the tenancy agreements.

K.T. testified as follows. The Tenant gave notice ending the tenancy in July 2018. The Tenant then wanted to stay. The Landlords increased the rent because they had not done so previously. The Tenant agreed to this and signed the tenancy agreement.

The Landlord testified that the Tenant had her mother living with her for six months. The Landlord testified that the Tenant agreed to the rent increases. The Landlord

agreed the increases were done through the written tenancy agreements and not through notices of rent increase.

Witness A.M.

Witness A.M. testified as follows. It was clear there was construction going on at the residence over a long period of time. She could tell this from picking her daughter up and dropping her off. She did not note the exact dates but it went on for a minimum of three weeks. The construction included the roof and renovations inside. The Tenant's daughter asked to stay at her house three times because of the dust and noise.

Witness A.M. testified as follows in response to questions from K.T. She could see a number of people coming and going from the residence and materials going through the front door. It looked like flooring. She was not aware of the full extent of the renovations. She attended the residence every two to three days. She cannot say what days because she was not taking notes.

Witness A.A.

Witness A.A. testified as follows. She is the Tenant's daughter and is 14 years old. The Landlords did construction in May. It was in her room. It was hard to sleep and be in the rental unit because of her allergies. She went to her friend's house. There were mouse issues in May as well. She was afraid to leave her room. The lights in the bathroom would stop working and constantly had to be changed. She could not attend online classes because of the noise and her allergies.

Witness A.A. testified as follows in response to questions from K.T. She means renovations were above her room, not in her room. She recalls a lot of people coming into the unit. People came in every once in a while during the month. She does not know what they were doing. School was okay at the beginning but got worse as time went on and renovations were above her room. She has allergies to dust which causes her to sneeze and her eyes to tear up.

I note that witness A.A. would take long pauses before answering some of K.T.'s questions.

I asked witness A.A. how long the construction went on for. Her answer consisted of "umm...about...trying to remember...know May umm...continued May, June and April I think three months".

Witness J.M.

Witness J.M. is a friend of witness A.A. It is my understanding she is also 14 years old.

Witness J.M. testified as follows. There were mouse droppings in the rental unit in mid-May as well as other evidence of mice. Sometimes the dust in the rental unit would irritate her eyes and she could not stay there.

Witness J.M. testified as follows in response to questions from K.T. She saw mouse traps at the rental unit. She agrees the Landlords provided traps. She saw crumbs under the oven and fridge when cleaning the rental unit.

In relation to the mouse issue, K.T. submitted that the Tenant caused the issue by leaving crumbs and open packages of food around.

At the end of the hearing, the Landlord reiterated that she never received any receipts for any of the items claimed.

Analysis

I am not satisfied based on the evidence provided of what evidence was and was not served on the Landlords. The Tenant has the onus to prove service of her evidence. Where the Landlord or K.T. has advised that the Landlords did not receive evidence, I have excluded it pursuant to rule 3.17 of the Rules of Procedure (the "Rules") as I find it would be unfair to admit evidence when I am not satisfied it was served on the Landlords as required by rule 3.14 of the Rules.

Pursuant to rule 6.6. of the Rules, it is the Tenant as applicant who has the onus to prove the claim.

Section 7 of the *Residential Tenancy Act* (the "Act") states:

7 (1) If a landlord...does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord...must compensate the [tenant] for damage or loss that results.

(2) A...tenant who claims compensation for damage or loss that results from the [landlord's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

A tenant's right to quiet enjoyment is protected by section 28 of the *Act* which states:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29...
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Policy Guideline 6 deals with the right to quiet enjoyment and states 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...

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.

In determining whether a breach of quiet enjoyment has occurred, it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises...

A tenant may be entitled to compensation for loss of use of a portion of the property that constitutes loss of quiet enjoyment even if the landlord has made reasonable efforts to minimize disruption to the tenant in making repairs or completing renovations.

Items one through five relate to the construction in the Landlords' residence. I therefore address this issue first.

I am satisfied the Landlords did renovations of their flooring, counters and cabinets in May. The Landlord and K.T. acknowledged this. The evidence supports this and supports that the renovations started around April 28, 2020. I am satisfied these renovations caused noise and that the Tenant and her family were negatively impacted by the noise as this accords with common sense given the nature of the renovations.

I am not satisfied based on the evidence that the renovations included anything further than renovations to the flooring, counters and cabinets. There is no compelling evidence before me that supports this. I acknowledge that witness A.M. mentioned construction involving the roof. I am not satisfied witness A.M. was aware of what renovations were occurring at the residence given witness A.M. did not live at the residence, seemed to only be there temporarily during the relevant time and acknowledged she was not aware of the full extent of the renovations.

Further, even if there were renovations involving the roof, I am not satisfied based on the evidence that this negatively impacted the Tenant or her family.

The Tenant raised issues about materials or equipment around the residence. I have reviewed the photos of this. I am not satisfied this issue amounted to a breach of section 28 of the *Act* given the minor nature of it as shown in the photos.

The Tenant raised issues about workers around the residence. I do not find that the documentary evidence supports that there was an unreasonable number of workers around or that the workers were somehow disturbing the Tenant or her family. The parties disagreed about how many times workers came into the rental unit. The documentary evidence does not support that this occurred more than once. I do not accept witness A.A.'s testimony about a lot of people coming into the unit. I did not find witness A.A.'s testimony to be compelling given her answers and how she answered questions. Further, her testimony on people coming into the unit was not compelling given she claimed to have witnessed this but could not say what the people were doing in the rental unit. I am not satisfied based on the evidence that the presence of workers at the residence amounted to a breach of section 28 of the *Act*. I also note that the Tenant lived in a shared residence and should have expected that there would be other people around the residence and rental unit at times.

The Tenant and witnesses raised an issue about dust in the rental unit. K.T. denied there was dust in the rental unit caused by the renovations. The Tenant submitted photos of the rental unit. None of the photos support that there was excessive dust in the rental unit from the renovations. Some of the photos purporting to be of dust from the renovations show the type of debris that accumulates in a residence when it is not swept, dusted or vacuumed. If there was excessive dust as claimed by the Tenant and witnesses, I would expect this to be reflected in the photos. Given it is not, I am not satisfied there was excessive dust in the rental unit due to the renovations.

The Tenant raised health issues relating to the renovations. I am not satisfied the Tenant or her family suffered from health issues relating to the renovations. I would expect to see some medical evidence of health issues; however, none has been submitted. I also note the following in coming to this decision. The renovations did not occur in the rental unit. The documentary evidence does not support that the renovations were extensive. The documentary evidence does not support that the renovations had any major impact on the Tenant or her family.

I am not satisfied based on the evidence of how long the renovations lasted or how continuous or sporadic they were. The parties and witnesses all gave different testimony about this. The documentary evidence does not clearly show this. The documentary evidence suggests that the renovations were sporadic from April 28, 2020 through May. K.T. testified that the renovations were done by the time the Tenant vacated. I am not satisfied the renovations went past the end of May as there is not compelling evidence of this before me. Nor am I satisfied the Tenant or witnesses would have known if the renovations went past May as the Tenant no longer lived in the

rental unit in June. In the circumstances, I am only satisfied the renovations occurred sporadically for at most a month and three days.

I would expect to see photos, video and audio to support the position that the renovations were extensive, continuous or had a major impact on the Tenant and her family. Yet, the documentary evidence does not support that the renovations were extensive, continuous or had a major impact on the Tenant and her family.

Given I accept that there was noise that negatively impacted the Tenant and her family, I am satisfied the Landlords breached section 28 of the *Act*. However, I am not satisfied based on the evidence that the breach was more than minimal.

The Tenant raised an issue about mice. I do not find the evidence provided about the mouse issue compelling evidence of a breach by the Landlords. I am satisfied that there were mice in the rental unit as the documentary evidence supports this and I accept the testimony of witness J.M. in relation to this. However, the documentary evidence shows this issue was raised March 30, 2020 and April 30, 2020 with the Landlords. I am not satisfied the mouse issue was an ongoing issue for a lengthy period of time. I am satisfied the Landlords took some steps to address it as I am satisfied they provided the Tenant with traps given the testimony of witness J.M. Further, K.T. submitted that the mouse issue was a result of the Tenant and there is some evidence to support this position such as photos and the testimony of witness J.M. about crumbs left under the oven and fridge. I am not satisfied based on the evidence that the mouse issue is not due to the Tenant. Nor am I satisfied based on the evidence that the Landlords breached the *Act* in relation to the mouse issue.

Given the above, I am not satisfied the Tenant had to move out of the rental unit due to the mouse issue or the renovation issue. I am not satisfied either issue was so serious that the Tenant had no option but to move out. Further, I am not satisfied the mouse issue amounts to a breach of the *Act*. In relation to the renovations, I find the Tenant had other options such as going to stay at a hotel or another living accommodation while the renovations were occurring and seeking compensation from the Landlords for this. The Tenant suggested that she did not feel comfortable doing this given the current pandemic. I am not satisfied of this given the Tenant also testified that she did go stay in a hotel and is seeking compensation for doing so. In the circumstances, I find the Tenant chose to move out of the rental unit. I also note that the Tenant acknowledged deciding two days after the renovations started that she was going to move out. This again supports that the Tenant chose to move out and did not have to move out due to the impact of the renovations.

In relation to the Tenant's submissions about notice, the Landlords were not required to provide the Tenant four months notice of renovating their own residence. There is no such requirement in the *Act* or *Residential Tenancy Regulation* (the "*Regulations*"). I do not accept that the Landlords were required to give the Tenant any notice of doing renovations in their own residence pursuant to the *Act* or *Regulations*.

I now turn to the Tenant's specific claims.

#1 Security deposit for new apartment \$850.00

I am not satisfied the Tenant is entitled to this compensation. I am not satisfied the Tenant had to move. I find the Tenant chose to move. It is this choice that resulted in the Tenant requiring a security deposit. It is not the breach of section 28 of the *Act* that caused this. Therefore, the loss claimed does not flow from the breach and the Tenant is not entitled to compensation for it.

I also again note that the Landlords were not required to give the Tenant notice of the renovations and therefore the Tenant's reasoning for this compensation does not stand.

#2 Hotel bill \$182.05

I am not satisfied the Tenant is entitled to this compensation. There is no admissible evidence before me of the cost of the hotel and therefore the Tenant has failed to prove the amount or value of the loss claimed.

#3 Meals (delivery service) \$600.00

I am not satisfied the Tenant is entitled to this compensation for two reasons.

First, I am not satisfied the renovations impacted the Tenant's use of the rental unit in relation to cooking. I do not find that there is compelling evidence before me of this and have found that the documentary evidence does not support that the renovations were extensive, continuous or had a major impact on the Tenant and her family. Therefore, I am not satisfied the loss claimed flows from the breach.

Second, there is no admissible evidence before me showing the Tenant spent \$600.00 on food delivery services and therefore the Tenant has failed to prove the amount or value of the loss claimed.

#4 Rent for new apartment (\$1,700.00 per month) \$20,400.00

I am not satisfied the Tenant is entitled to this compensation for three reasons.

First, the Tenant did not have to move out of the rental unit. The Tenant chose to move out. It is the Tenant's choice that resulted in her having to pay rent at her new apartment.

Second, it was the Tenant's choice to rent an apartment outside of her budget. The Landlords are not responsible for this choice.

Third, the amount claimed is so excessive and out of proportion to the breach proven as to be unreasonable.

#5 Furniture \$2,340.79

I am not satisfied the Tenant is entitled to this compensation for several reasons.

First, the Tenant chose to move out. It is this choice that resulted in her needing new furniture for her new apartment. It is not the breach that caused this.

Second, it was the Tenant's choice to rent an apartment that would not fit her furniture. The Landlords are not responsible for this choice.

Third, it is unreasonable to suggest that furniture must be thrown out because it is dusty. The reasonable approach to this issue would have been to clean the furniture.

Fourth, I am not satisfied based on the evidence provided that the furniture was dusty due to the renovations.

Fifth, the Tenant chose to take her mattress outside and leave it outside in the rain. Any damage to the mattress was a result of the Tenant's own actions, not the breach by the Landlords.

#6 Rent difference in 2018 and 2019 \$1,164.00

I have considered the rent increase for 2018 and 2019 as, upon further review, I find this was made clear in the Application.

Policy Guideline 30 states at page four:

A rent increase between fixed term tenancy agreements with the same tenant for the same unit is subject to the rent increase provisions of the Legislation, including requirements for timing and notice. To raise the rent above the maximum annual allowable amount, the landlord must have either the tenant's written agreement or an order from an arbitrator. If the tenant agrees to an additional rent increase, the landlord must issue a Notice of Rent Increase along with a copy of the tenant's signed agreement to the additional amount. The tenant must be given three full months' notice of the increase.

All of the tenancy agreements were between the Landlords and Tenant in relation to the same rental unit. I do not see any major changes to the tenancy agreements between written agreements and no major changes were brought to my attention.

I find the tenancy agreements were between the same parties for the same rental unit and were fixed term agreements. The Landlords were required to comply with Part 3 of the *Act* in relation to rent increases. The Landlords did not do so as no Notices of Rent Increase were provided. The rent increases were therefore contrary to the *Act*. The Tenant was not required to pay the rent increases and can recover the amount of the increases. This means the Tenant is entitled to all rent paid above \$1,250.00 from August 01, 2018 to May 20, 2020. I calculate this as follows:

- August 20, 2018 to July 20, 2019 = 12 payments of \$1,325.00 = \$900.00 paid towards the illegal rent increase
- August 20, 2019 to April 20, 2020 = 9 payments of \$1,404.50 = \$1,390.50 paid towards the illegal rent increase
- Total paid towards the illegal rent increases = \$2,290.50

The Tenant is entitled to compensation in the amount of \$2,290.50 pursuant to section 43(5) of the *Act*.

Summary

I am satisfied the Landlords breached section 28 of the *Act* in relation to noise from the renovations. However, I am not satisfied this breach was anything more than minimal and sporadic over a month and three days at the very most. The Tenant claimed the losses outlined. However, the Tenant has failed to prove she is entitled to the amounts claimed.

I do find the Tenant is entitled to some compensation. The Tenant testified that she did not pay rent May 20, 2020. The Tenant vacated the rental unit May 31, 2020. Therefore, the Tenant lived in the rental unit for free for eleven days. I find this to fairly compensate the Tenant for the breach. Therefore, I do not award the Tenant any further compensation. However, the Landlords cannot seek unpaid rent from the Tenant for the period from May 20, 2020 to May 31, 2020 in the future as I find the Tenant is entitled to eleven days of free rent given the breach of section 28 of the *Act*.

In relation to the rent increase issue, the Tenant is entitled to \$2,290.50.

Given the Tenant was partially successful in the Application, I award her reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

In total, the Landlords must compensate the Tenant \$2,390.50. The Tenant is issued a Monetary Order for this amount.

Conclusion

The Landlords must compensate the Tenant \$2,390.50. The Tenant is issued a Monetary Order for this amount. This Order must be served on the Landlords. If the Landlords fail to comply with this Order, it 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 *Act*.

Dated: August 21, 2020

Residential Tenancy Branch