Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, MNDL, FFL

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution, submitted on May 20, 2021, seeking a monetary order.

The hearing was originally conducted via teleconference on November 19, 2021, and was attended by both landlords, the tenant, and her agent. That arbitrator, in that hearing, determined the tenant had not been served sufficiently and ordered the landlords to serve the tenant with their Application for Dispute Resolution and evidence at an address for the tenant's agent that was provided during that hearing.

The parties confirmed received of each other's evidence with the exception of thumb drives containing video evidence served from the tenants to the landlords. The tenant submitted that she served those by email to the landlord.

At the outset of the hearing, I noted the landlords' claim included the costs associated for preparing for this hearing, which included:

Description	Amount
Time to prepare for hearing – 100 hours at $30.00 per hour	$3,000.00
Photocopies of documents for dispute resolution	$125.14
Mail of documents for dispute resolution	$25.00
Photographs for dispute resolution	$16.07
Total	$3,166.21

I advised the parties that I would be dismissing the above noted claims without hearing any submissions on these claims as they relate to costs associated with pursuing the landlord's claims which are not recoverable under the *Residential Tenancy Act (Act)*, with the exception recovery of the filing fee paid by the landlord for this Application. Recovery of the filing fee is determined based on the applicant's success or failure in the bulk of their claim.

I also noted, from the tenant's documentary submission, that she sought a determination as to whether she should be "penalized" for paying half of the last

month's rent with the damage deposit; return of double the amount of the security deposit as well as consideration for the landlords to be "penalized for routinely breaching my rights as a tenant"

I advised the parties, during the hearing, that all issues related to the security deposit would be dealt with in this hearing, as the landlords had included retention of the deposit as part of their claim. However, in relation to the tenant's claim regarding whether or not her "rights as a tenant" were breach would not be considered in this hearing, but that the tenant was at liberty to file her own claim should she so choose to seek compensation for such a breach. I note that this liberty is subject to any legislative deadlines to pursue a claim in a residential tenancy matter.

In regard to the tenant's point on a determination as to she should be "penalized" for paying half of the last month's rent with the damage deposit, I note that the purpose of this hearing is to hear the landlords' claim for losses and damages they feel they have suffered as a result of the tenancy. It is not the purpose of the dispute resolution process to assess any kind of penalty against either party.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and/or lost revenue and for the costs of cleaning of and repairs to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 21, 35, 36, 37, 38, 44, 45, 67, and 72 of the *Act.*

Background and Evidence

The parties agree the original tenancy began on July 1, 2018, for a 1-year fixed term ending on June 30, 2018. The landlord submitted a copy of a tenancy agreement signed by the parties by April 21, 2019, for a new 1-year fixed term tenancy beginning on July 1, 2019, for a monthly rent of $3,997.50 due on the first of each month.

I note this tenancy agreement included a notation on page 3 of 6 that the tenant paid $48.75 for a security deposit in addition to the amount of $1950 paid on July 1, 2018 for a total security deposit of $1,998.75.

I also note that on page 6 of 6 of this tenancy agreement it was identified that there were 13 additional terms set out in 2 pages of an attached addendum. The attached addendum included term 13 which states:

> "To enable equity in agreeing to a I year renewable lease the following guide line is to provide the criteria to enable breaking the lease without penalty. We prefer 3 month notice and not leading up to or during our out-of-country holiday with the objective of assuring it does not interfere with at least 2 months of advertising

> and our presence to show if required. Preferably to coincide with a change in school terms. We will inform asap as to when we plan on booking a holiday. Easy access to show to prospective new tenants with a bit of effort to have the place tidy and ready to show. If this is followed there should be no problem finding a new tenant without missing a month's rent." [reproduced as written]

The addendum is signed by both the landlord and the tenant. I also acknowledge that there is a handwritten note beside the signatures that states: “Note, terms of Residential Tenancy Act take presidence” [reproduced as written]

The landlords submitted that the tenant ended the tenancy 2 ½ months prior to the end of the fixed term by providing an email notice, on March 26, 2020, that she intended to vacate the rental unit on or before April 30, 2020 or earlier. The landlords also submitted the tenant paid $1,900.00 for rent for the month of April and asked for the landlords to consider applying the security deposit held to the balance of the rent owed. The landlords refused to agree to the request and seek unpaid rent in the amount of $2,097.50 for the month of April 2020.

The landlords also submitted that they were not able to re-rent the rental unit prior to the end of the fixed term end date and as such, they seek compensation for lost revenue for the months of May and June 2020 in the amount of $7,995.00. The landlords’ total claim for unpaid rent and lost revenue totals $10,092.50.

The landlords provided, as evidence, a copy of an email dated March 26, 2020 which states the tenant intends to end the tenancy “due to the crisis”. I note that the “crisis” identified refers to the Covid-19 pandemic that had recently been announced including the introduction of both federal and provincial restrictions and lockdowns impacting the entire country.

The landlords also submitted into evidence additional email correspondence between the two parties, beginning on March 1, 2020, where the tenant provided the landlord with a 3 month notice that she would “likely” be moving out of the rental unit on June 1, 2020, but that she might stay until the end of June (end of the fixed term).

The landlords responded on March 4, 2020, stating that “in order to terminate your lease agreement a month early, we need to find a suitable tenant for June 1.” On March 5, 2020, they informed the tenant by email that they have reactivated their listing to advertise the rental unit and they “will try to find a suitable tenant for June 1 so you may end your lease agreement a month early.”

The landlords submitted into evidence a copy of an email from the tenant, dated April 1, 2020 in which she states:

“In response to your last email, my understanding has been and is that I am permitted to leave the lease with reasonable written notice, which I have given for April 30, 2020 in my email dated March 26, 2020.

Proof of this understanding is found in 1) the handwritten addendum on the lease itself at the time of signing 2) previous conversations by email 3) your acceptance of termination of residency by written notice for May 31, prior to the pandemic throwing all plans to the wayside 4) conversations stating you were flexible when the lease was terminated but would prefer it did not occur in the winter months for various reasons. You have a copy of the lease and correspondence and will recall our conversations, so can decide whether you agree in good faith or not.

If you disagree, I would like to bring to your attention the contract law doctrine of 'frustration'. Essentially, this doctrine ends an agreement automatically when some unanticipated event has made the agreement something different than it was originally intended to be. I've attached the BC government description of how this works in a residential lease. In my instance I note 1) the pandemic was unanticipated; 2) it was unanticipated and life-altering as my family had to go into quarantine 3) the personal, work, and financial implications of the pandemic make it impossible for myself and my family to continue to live in Vancouver during the pandemic, let alone in a Vancouver home with a rent of $4000/month.

I would also like to bring to your attention that the Residential Tenancy Branch states the following regarding Covid-19 and Tenancies: "parties are encouraged to discuss, negotiate or compromise in order to reach a solution that works for everyone involved." In my previous email, I did my best to find a solution to the current situation that would minimize damages for all parties, presenting three possible options. Your response did not consider the difficult position I am in, the logistics and health risks of moving during a pandemic nor the personal, work and financial consequences the pandemic poses to myself and my family. It did however consider your personal health and financial interests.

This email is to confirm I will be vacating the rental home at 106 East 18th by April 30th as stated in the email sent March 26. As noted in rny previous email, I will not permit entry for viewings oi• any other reason before we have fully vacated for health reasons related to COVET-19 and as supported by emergency legislation (forwarded previously). I'm happy to forward current photos if you'd appreciate these to show prospective tenants. The house has been well looked after and there is only the normal wear and tear one would expect after 22 months of tenancy. I will leave keys with Carla and Andre. After I vacate, I will hire cleaners. I will get the mail forwarded and transfer back to you the Hydro and Gas accounts as of my last day of occupancy. I will disconnect my internet service. There may arise complications related to the pandemic but hopefully not.

> I intend to leave the house and accomplish all of the above as soon as possible. Given the myriad of challenges of a move during a state of emergency, I am unable to confirm exact date but will do so once firm. Part of my motivation to leave the house as soon as possible is to give you the opportunity to show it as I understand this would minimize losses for you. I will let you know when it is vacant, clean and available for viewings. I suspect Carla and Andre would be willing to open the house for prospective tenants to view should you feel travel at this time is unsafe for you and others, but obviously I will leave that in your court."

In her submissions at the hearing the tenant put forward the argument that she had not entered into another fixed term tenancy with the landlord when the original fixed term ended on June 30, 2019 and as a result, she had month to month tenancy. Therefore, her position was that she only had to give a one month's notice.

The tenant purported that after consultation with three lawyers, including two who specialize in residential tenancy law; as well as two lawyers from the Access Pro Bono Society of BC and a professor who is one of Canada's most preeminent legal scholars that she does not believe she owes the landlord for rent or damage. She explains that pursuant to Section 44(3) of the *Act* the claim for rent should be dismissed.

The tenant explained that Section 44 stipulates that if, on the date specified as the end of a fixed term tenancy agreement that does not require the tenant to vacate the rental unit on that date, the landlord and tenant have not entered into a new tenancy agreement, the landlord and tenant are deemed to have renewed the tenancy agreement as a month-to-month tenancy on the same terms.

The tenant further submitted that the delivery of a rent increase notice three months in advance is "one indication that the landlord and tenant have not entered into a new tenancy agreement but rather, the tenancy agreement was officially renewed as a month-to-month tenancy". She does not explain the source of this position. The tenant submitted the landlords had issued a Notice of Rent Increase on March 31, 2019 and as such the new tenancy was converted to a month to month tenancy.

The tenant testified that she had not signed a new fixed term tenancy agreement. When I referred the tenant to the landlord's evidence of a tenancy agreement and addendum, signed by her on April 11, 2019 she confirmed that she had signed it but that didn't agree with the landlords' term 13 of the addendum.

For clarity, I outline here that the tenant has put forward 3 reasons why she should not be held responsible for any rent beyond which she has provided to the landlord:

1. Because the landlords had agreed to let her end the fixed term on June 1, 2020 under a previous email discussion that they had when she intended to be out of the country sometime in June 2020;

2. If the landlords disagreed with the first reason, then they should consider the tenancy agreement was frustrated; and
3. That she never entered into a fixed term tenancy agreement with the landlords beginning on July 1, 2019 and the tenancy converted to a month to month tenancy and as a result she was only required to give a one month notice to end tenancy which she did on March 26, 2020.

The landlords submitted into evidence copies of their advertisements and availability of the rental unit, beginning in March 2020 and a diary of their perspective tenants that the had engaged in discussions with in attempts to re-rent the unit over the course of the remainder of the fixed term.

The landlords also seek the costs for cleaning of the rental unit as well as the costs to repair damages. In support of their claim the landlords have submitted copies of a Condition Inspection Report, completed at the start and end of the tenancy recording the condition of the rental unit at both of those times. The move out inspection was completed on April 15, 2020.

The parties agreed the tenant did not attend the move out inspection. The landlords submitted a copy of an email dated April 15, 2020 from the tenant to them that states:

> "Due to Covid-19, I am no longer in XXXX and would not feel comfortable attending anyway given social isolation guidelines. Further, I cannot send anyone in good faith on my behalf given the pandemic and social isolation guidelines.
>
> I have reviewed Section 32(1) of the RTA and am confident I have fulfilled all my legal obligations to you as a tenant, with the home being returned with very minor and normal wear and tear after 22 months. The house is in exceptional condition and in some ways, cleaner then when we moved in (a deeper clean of many areas and carpets for example).
>
> I understand that the norm is for this inspection to be witnessed, but these are not normal times and so we will have to adapt."

In addition the landlords have submitted photographs, email correspondence and receipts for the purchase of a smoke alarm; carpet cleaner rental; and advertising costs. The landlords' claim consists of:

Description	Amount
Advertising	$87.07
Smoke Alarm	$26.29
Male Landlord* – repairs of "other damage including scuffs and huge scratch in wood floor and replacing light bulbs and cleaning carpet.	$997.00
Carpet Cleaner rental	$28.00
Female Landlord – cleaning – 22 hours @ $25.00 per hour	$550.00
Total	$1,688.36

*I note that under this heading the landlord provided calculations in their submissions that indicate a total of $322.05 for the male landlord's labour; leaving a balance of $654.95 as attributed to supplies.

The move out Condition Inspection Report records the following conditions relevant to cleaning:

- Tile grout in the kitchen is very dirty and stained (I note the Report also records grout stained at the start of the tenancy);
- Inside cupboards not cleaned;
- Fridge not rolled out and cleaned beneath;
- Couple of stains in the floor of the west bedroom;
- Walls scuffed not cleaned in east bedroom;
- Basement "filthy uncleaned walls;
- Basement office – unwashed walls;
- Built in vacuum bag uncleaned; and
- Laundry room cabinet uncleaned with stored items remaining

In the photographs that were submitted in relation to cleaning there were some notes such as:

- I had to scrub the stain of the toilet and clean all the windows and wash some walls. The floors still need to be washed;
- I am unable to get the stains off the ledge and off the wall by the window of the family room;
- I also had to dust the cobwebs from the ceiling throughout the entire house;
- I also had to clean the inside of all door frames;
- I also had to sweep and clean both south facing decks as well as wash the picnic table on the deck off the kitchen;
- I also mentioned that I had to clean the grout in the bathroom over the bat tub, too, which had not been done by you or your cleaner;
- I also washed the curtains, all the windows, some of the shelves and drawers in the kitchen and the walls of the dining room and kitchen. I also washed all the windows downstairs and then re cleaned the living room floor which is when….;
- See above for clean curtains, after I washed them all, plus cleaned the windows and all the glass doors beside the fireplace;

- I also washed the walls of both stairwell. Plus the bathroom, the linen closet (cleaned the mould off the baseboards of the line closet) and the wall of the small bedroom and the office and the above of the SE bedroom;
- I washed all the inside windows including the skylights which were also mouldy and the windows outside that I could reach;
- I had to work hard to get the mould off all the other upstairs windows as well;
- I had to clean the light fixtures, the dining room table and chairs, the placemats, the walls in the dining room and kitchen;

In relation to the damage costs claimed the Condition Inspection Report states:

- Installed wood w/hooks not removed and wall patched in the kitchen;
- Missing smoke detector in the kitchen;
- Burnt out light in the living room;
- 2 burned out ceiling lights; many/some large/deep scratches to floor in the dining room;
- 3 burnt out vanity bulbs in the bathroom;
- 1 missing light bulb in the master bedroom; and
- Acid or cigarette burn into wood wainscot cap; broken tile base; damaged weatherstrip to entry door; scuffs; dint chip to wood ceiling trim; scuffs ceiling and walls, one burnt out light bulb; damage to side wall – all in the basement office.

The tenant disagrees with the landlords' assertions to the conditions recorded in the Condition Inspection Report. She submitted that she had the rental unit professionally cleaned and provided confirmation of payment for cleaning services.

In regard to the damage claims the tenant respondent, in her written submissions to each specific claim. For the most part, she responded by saying "I know nothing of this and suspect but cannot say for sure this was damage that existed prior to my tenancy." In addition, in some instances she provided the following: "Further, if it was done during my occupancy, I would characterize this as general wear and tear."

Analysis

Section 35 of the *Act* requires a landlord and tenant to inspect the rental unit at the end of the tenancy together. The tenant refused the opportunity to attend the move out inspection as she had already moved out of the community where the rental unit was located and due to the pandemic chose not to appoint anyone to attend on her behalf.

I note that while there had been a ministerial order in place at the time this tenancy ended that limited how landlords could show occupied rental units to prospective tenants there was no such order limited either party's participation in move in and/or move out inspections. As such, the tenant or her agent were required to attend.

Section 36 states that if a tenant fails to attend a condition inspection, they extinguish their right to claim the security deposit at the end of the tenancy. As such, I find the tenant failed to attend the move out inspection and as such she no longer has a right to return of her security deposit.

In addition, from the Interim Decision made after original hearing in this case, and the tenant's submission during this hearing that she did not want to give the landlord her address, I find that the tenant first provided the landlords with her forwarding address (her father's mailing address) on November 19, 2021.

Section 44 of the *Act* states that, among other things, a tenancy ends when the tenant vacates the rental unit. As per the submissions of both parties I accept the tenant vacated the rental unit on April 12, 2020. Therefore, I find the tenancy ended on that date. Section 39 states that if a tenant does not give the landlord their forwarding address within one year of the end of the tenancy, the tenant, again, extinguishes their right to return of the deposit.

As such, I find the tenant had until April 11, 2021, to provide their forwarding address to the landlord. However, as I noted above, I find that the tenant provided the landlords with her father's address on November 19, 2021, or at least 18 months after the tenancy ended. Therefore, I find the tenant has extinguished her right to return of the deposit.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act,* regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 45(1) of the *Act* allows a tenant to end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

> (a) is not earlier than one month after the date the landlord receives the notice, and
>
> (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 45(2) also allows a tenant to end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

> (a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 45(3) allows that if a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

As noted above, the tenant has put forward three specific explanations to the issue of ending the tenancy. First, I turn to the tenant's position that she had not entered into a fixed term tenancy and as such she could end the tenancy with a one-month notice.

She stated that she did not sign a new fixed term tenancy agreement or addendum. When I confirmed that she had signed these documents she stated that she did not agree with term 13 in the addendum, and she noted that the *Act* should prevail on the addendum. In all circumstances, if a term is contrary to the *Act*, then the *Act* does prevail. However, a term in a tenancy agreement that does not comply with the *Act* does not render the tenancy agreement moot.

The tenant also asserts that there is no new fixed term tenancy agreement because the landlord issued a notice of rent increase three months prior to the start of the new tenancy agreements effective date. She states "one indication that the landlord and tenant have not entered into a new tenancy agreement but rather, the tenancy agreement was officially renewed as a month-to-month tenancy"

While the tenant asserts that she consulted with a number of lawyers and a professor it is not clear where she obtained this position. I note, for example, Residential Tenancy Policy Guideline 30 states, in regard to renewing a fixed term tenancy:

> A landlord and tenant may agree to renew a fixed term tenancy agreement with or without changes, for another fixed term. If a tenancy does not end at the end of the fixed term, and if the parties do not enter into a new tenancy agreement, the tenancy automatically continues as a month-to-month tenancy on the same terms. **Rent can only be increased between fixed-term tenancy agreements with the same tenant if the notice and timing requirements for rent Increases are met.** [emphasis added]

As such, the landlords were required by law to provide a notice of rent increase three months prior to the start of the new fixed term tenancy if they wanted to increase the

rent, for the new fixed term tenancy. Therefore, I find the tenant's understanding on this issue does not support her position.

In addition, I am satisfied from the documentary submission of the landlord and the tenant's confirmation that she signed the tenancy agreement that she, in fact, was the party to a new fixed term tenancy agreement and as such could not end the tenancy in accordance with Section 45(1) by giving a one-month notice.

Next, on the issue of frustration the tenant suggested to the landlord in correspondence that the tenancy contract was frustrated. She makes this assertion based on her understanding of the legal doctrine of frustration which she says is:

> "Essentially, this doctrine ends an agreement automatically when some unanticipated event has made the agreement something different than it was originally intended to be."

Residential Tenancy Policy Guideline #34 states a contract is frustrated where, without the fault of either party, a contract becomes incapable of being performed because an unforeseeable event has so radically changed the circumstances that fulfillment of the contract as originally intended is now impossible. Where a contract is frustrated, the parties to the contract are discharged or relieved from fulfilling their obligations under the contract.

While I agree with the tenant that the pandemic did raise a lot of issues for a lot of people, the pandemic itself did not change the nature of the terms of the contract. A change in a person's employment status and/or income does not contribute to the doctrine of frustration. I find the parties still were or should have been able to fulfil their respective obligations under the tenancy agreement, including the payment of rent. As such, I find the tenancy was not frustrated and the tenant was required to end the tenancy in accordance with the tenancy agreement and the *Act*.

Section 45(2) requires that the earliest the tenant can end a fixed term tenancy is the end date of the fixed term. While the landlords did insert a clause in the tenancy agreement allowing the tenant to end the tenancy earlier than the *Act* allows, as the tenant submits the *Act* prevails.

However, I will allow that term 13 in the addendum of this tenancy agreement does provide a benefit to the tenant more than the landlord, in that it may allow the tenant to end the tenancy early – if certain conditions are met, including the finding of a new replacement tenant to take over the tenancy.

I also note that in any of the responses to the tenant from the landlord in regard to the issue of ending the tenancy on June 1, 2020, the landlord's response was consistent

and clear that a replacement tenant was required before the landlords would release the tenant of her obligations to end the tenancy earlier than the end date of the fixed term. As a result, I find the landlords had not agreed to end the tenant effective June 1, 2020.

Residential Tenancy Policy Guideline 3 states:

> Where a tenant vacates or abandons the premises before a tenancy agreement has ended, the tenant must compensate the landlord for the damage or loss that results from their failure to comply with the legislation and tenancy agreement. This can include the unpaid rent to the date the tenancy agreement ended and the rent the landlord would have been entitled to for the remainder of the term of the tenancy agreement.
>
> Similarly, when a landlord ends a fixed term tenancy early as a result of the tenant's actions (such as not paying rent or most of the grounds for cause), the landlord may also be able to claim the loss of rent for the remainder of the term of the tenancy agreement.
>
> Compensation is to put the landlord in the same position as if the tenant had complied with the legislation and tenancy agreement. Compensation will generally include any loss of rent up to the earliest time that the tenant could legally have ended the tenancy. It may also take into account the difference between what the landlord would have received from the defaulting tenant for rent and what they were able to re-rent the premises for during the balance of the term of the tenancy.

As such, and since I have found above, that the tenant had no authourity under the *Act* to end the tenancy earlier than the end date of the fixed term, I find the tenant is responsible for the payment of rent until June 30, 2020, subject to the landlord's obligations to mitigate their losses.

From the landlord's undisputed evidence regarding their efforts to re-rent the rental unit, I am satisfied that the landlord took reasonable steps to mitigate their losses as it relates to rent.

Section 21 of the *Act* prohibits a tenant from applying a security deposit to a rent payment and when I combine that with the fact that the tenant has extinguished her right to the return of the deposit, I find that she had no authourity under the *Act* to dictate to the landlord to use the deposit for rent. Therefore, I find the landlords have established the tenant owes the landlord rent in the amount of $2097.50 and lost revenue in the amount of $7,995.00 for a total of $10,092.50.

Section 37 of the *Act* stipulates that when a tenant vacates a rental unit, the tenant must:

a) Leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
b) Give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

In relation to the landlord's claim for repairs and damages to the rental unit, I am not persuaded that the landlord's claim has been made in full. I note that the standard under Section 37 is that the rental unit be left reasonably clean.

I am not satisfied the landlord has established that the amount of cleaning claimed by the landlord is consistent with the evidence of the condition of the unit. I make this finding, in part, because of the inconsistency in between the Condition Inspection Report and the record of the work the landlord stated she had completed.

For example, the Condition Inspection Report makes no mention of the stains of the toilet seat and grout in the bathroom; there is no mention in the Report of dirty windows; curtains; or furniture; and there is identification of grout staining in the kitchen at both the start and end of the tenancy.

In addition, I find the cleaning reported by the landlord that was completed far exceeds what it would take to make the unit reasonably clean. I am also satisfied, based on the tenant's evidence that she had left the unit reasonably cleaned, including the cleaning of carpets.

For these reasons, I dismiss the landlord's claims for cleaning.

As to repairs, from the photographic evidence, I am not satisfied that the bulk of the repairs are not reasonable wear and tear with some exceptions. I am satisfied that the landlords had to replace the smoke alarm and light bulbs; the broken base tile; scratches to the wood flooring; and the installation of the coat hooks.

As to the amount the landlord should be entitled for these repairs, I find the landlord has provided a receipt for the replacement smoke alarm but has provided no evidence of the costs of any repair supplies for fixing the base tile; the scratches in the floor; or replacement bulbs. I note the landlord has submitted $75.00 for repairs to the hardwood flooring and $20.00 to repair the areas where the coat hooks were replaced, which seem like reasonable estimates. The landlord has submitted a receipt to establish the cost of purchase of the smoke alarm. In regard to the cost to replace

lightbulbs and the base tile, the landlord has provided no evidence or estimate of those costs.

Based on the above, I grant the landlords a nominal award of $200.00 for repairs.

From the landlords evidence, including the receipt and the confirmation of the advertising submitted I find the landlords have established entitlement to recover the cost of advertising in the amount of $87.07.

As a result of my findings above, I find the landlords have established an entitlement to compensation in the amount of $10,379.57. I also note that despite my findings above that the tenant has extinguished her right to the return of her security deposit, I must set off the deposit held against the award granted leaving a balance of $8,380.82

Conclusion

I find the landlords are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **$8,430.82** comprised of $8,380.82 as noted above and $50.00 of the $100.00 of the filing fee paid by the landlord for this application, as they were only partially successful in their claim.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 02, 2022

Residential Tenancy Branch