Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDB-DR, FFT / MNDL-S, MNDCL-S, FFL

Introduction

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the "**Act**"). The landlord's application for:

- authorization to retain all or a portion of the security deposit and pet damage deposit (the "**deposits**") in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for damage to the rental unit and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of $3,604.46 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

And the tenant's application for:

- the return of the deposits pursuant to section 38 of the Act; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties testified that they had served the other with their notice of dispute resolution package and supporting documentary evidence and confirmed that they had received the others. I find that all parties have been served with the required documents in accordance with the Act.

Issues to be Decided

Is the landlord entitled to:

1) a monetary order for $3,604.46;
2) recover the filing fee; and
3) retain the deposits in partial satisfaction of the monetary orders made?

Is the tenant entitled to:

1) the return of the deposits; and
2) recover the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The parties entered into a written, fixed term tenancy agreement starting January 1, 2020 and ending January 1, 2021. After the end of the fixed term, the tenancy converted to a month to month tenancy, as per section 44(3) of the Act. The tenant vacated the rental unit on either March 1 or March 2, 2021 (the parties disagree on the exact date). Monthly rent was $2,250. The tenant paid the landlord a security deposit of $1,125 and a pet damage deposit of $1,125, which the landlord continues to hold in trust for the tenant.

The copy of the tenancy agreement submitted into evidence by the landlord contains an address for service of the landlord. The copy submitted by the tenant does not. The tenant stated that the copy of the tenancy agreement that was provided to her for her signature did not have the landlord's address for service, and that one was never provided to her. The landlord disagreed, and stated that he added his address for service to the tenancy agreement after the tenant signed it, and the re-sent the agreement to the tenant.

The parties conducted a move-in condition inspection on January 19, 2020. The landlord produced a report and provided it to the tenant (the "**move-in report**"). It specified that the rental unit was largely in "good" condition, but had minor scratches on the entry and living room closets, scratches on the clothes dryer door, minor dents and scratches on the kitchen cabinets and doors, a non-functioning outlet in the kitchen, and a broken interior handle on the patio door.

The parties agree that the landlord and the tenant attended the rental unit to do a move-out condition inspection report on March 2, 2021. The landlord testified that he arrived prior to the tenant, and encountered the tenant's father, who was making repairs to the drywall. He testified that these repairs were insufficient to return the drywall to its original condition (he was placing plastic caps over holes, rather than patching and filling) so he asked the tenants father to stop work, and asked him to leave. The tenant denied that her father was inadequately repairing the walls, but agreed that the landlord asked him to leave before he could finish repairing the drywall.

The tenant testified that move out inspection was tense. She testified that the landlord was recording minor deficiencies on the move-out condition inspection report and telling her that she would be responsible for paying for the cost of repairing them. She testified that he was aggressive and hostile during the process.

The tenant submitted an audio recording where the parties are discussing the condition of the dishwasher (more on the condition later). The tenant explained that she had

taken pictures of hair in the drainage filter and the landlord interrupts her in an exasperated fashion stating, “Oh just shut the fuck up you fucking cunt. Shut up. Shut up.”

The tenant submitted a video taken after this incident during the inspection where the landlord pointed to a small chip on the lower corner of the kitchen island and said that it was not on the move-in report. The tenant expressed incredulity and pointed out the general condition of the rental unit and stated, “you’re going to tell me that is a deficiency?” The landlord then replied “Come on. Get out. Get your fucking ass out of here.”

The tenant then stated that the landlord should “get ready to be sued.” The landlord continued to say, “get out.” The tenant walked the perimeter of the main room of the rental unit recording its condition. The landlord told her to “bring it on” and again to “get the fuck out”. The tenant started walking towards the door. The landlord, in a raised voice said “get out!” The tenant stated that she was “in the middle of a moving inspection” and the landlord screamed “get out!” and then insisted that the “moving” inspection was done and reiterated that the tenant “get the fuck out”.

In the recording, the landlord said that the tenant “stated [she] was not going to sign [the move-out report]”, to which the tenant replied that she “was not going to sign it immediately [because they were] in the middle of a move out inspection”. The landlord then sighed “oh for fuck’s sake. Just get out. We’re done. Get out. Come on, lets go, out the door.” The landlord then approached the tenant and appeared to gesture towards her or placed his right hand near her in a sweeping motion so as to usher her out the door.

The tenant then left without signing the move-out inspection report.

The landlord testified that he acted like this because the inspection, had taken two hours and that the tenant was acting unreasonably throughout, hurling “verbal abuse” at him. The tenant denied that it had taken two hours or that she was acting unreasonably or was verbally abusive. The recordings submitted did not depict any verbal abuse being levied at the landlord by the tenant.

At the hearing, the landlord argued that this inspection did not amount to a move-out inspection, as it was not completed and as the tenant did not sign the move-out report. He testified that he served the tenant via text message with a Notice of Final Opportunity to Schedule a Condition Inspection (form #RTB-22), proposing that a condition inspection be conducted on March 4, 2021. The tenant testified that she texted the landlord that she was not going to attend and requested a copy of the move-out report that the landlord made on March 2, 2021 during the inspection. She testified that the landlord never provided her with one.

The landlord testified that he was not sure if he gave a copy of the move-out report to the tenant, but testified that it was his intention to do so at the second inspection.

The tenant provided the landlord with her forwarding address via email on March 3, 2021. In that email she stated that she did not agree with the stated deficiencies, specifically the dishwasher repair and the wiring. She also stated that she wanted to make it clear that she attended the move-out inspection and was present for the walkthrough and that she did not sign the move-out report due to the verbal exchange between them. The email address the message was sent to is the same address the landlord provided as an email address for service on his application. At the hearing, the landlord acknowledged receiving the email.

The landlord argued that since the tenant did not attend the second move out inspection, that she was not entitled to the return of the deposits. He made his application claiming against the deposits on January 27, 2022.

The landlord claims compensation for damage caused to the rental unit during the tenancy and to recover a fine imposed on him by the strata which he incurred as the result of the tenant's breach of the strata bylaws.

1. Strata Fine

The landlord testified that the tenant signed a "form K" as required by the *Strata Property Act* at the start of the tenancy. He testified that she was also given a copy of the strata bylaws at this time.

The landlord stated that the tenant breached the bylaws by bringing large plants onto the patio. The bylaws only allow for the storage of gas or electric barbecues and patio furniture.

On July 28, 2020, the strata manager sent the landlord a letter on behalf of the strata corporation stating:

> The Strata Corporation asked in their July 17, 2020 letter that the plants be removed. The Strata Corporation has now levied a fine of $200 on your strata lot account and will do so every seven days, as permitted under Strata Corporation bylaw 25.1, until such time the plants are removed.
> […]
> As per section 135 of the *Strata Property Act*, you are provided with an opportunity to answer the complaint in writing and or request a hearing, which is defined as an opportunity to be heard in person at a strata council meeting. The response or hearing request must be received in writing at our office within 14 calendar days of the date of this letter.

The landlord testified that he paid this fine.

The tenant denied that she received a copy of the bylaws. She submitted a text message chain between her and the landlord from dated June 30, 2020. She sent the landlord a photo of a note that she received from a neighbour which advised her of the bylaw prohibiting pants on balconies.

The landlord replied:

> Yeah there is a no plants by law. It's total BS. I did mention that when you moved in, but I did dump a lot of info on you back then.

The tenant replied:

> Yes it really is because I need privacy given the placement of my unit. Can I see a copy of the bylaw? What is the reason for it?

The landlord replied:

> I don't have a copy of the bylaws on hand. I can write to the management company for it. The reasoning is, ironically, because of my unit. The previous owner had a big ivy vine growing in the corner, and it rested the metal siding so after that repair the strata made the no plant by law. Honestly it was really minor damage and in my opinion that control of the siding could be handled differently. But most apartments have those tiny little balconies, and they don't seem to care.

The tenant replied:

> OK sounds good. If not hopefully they can provide some other solution for privacy because I need it and having the blinds closed is not ideal in the summer. K yeah and also the other units have all sorts of problematic items on the balcony lol.

The tenant testified that she arranged to have the plants removed and that they were sold to someone who picked them up on August 1, 2020. She testified that she thought this was done in time. She submitted texted messages between her and the buyer from this date confirming the sale and pickup.

2. Damage to Rental Unit

The landlord seeks compensation in the amount of $3,304.46, representing the following:

Description	Amount
Dishwasher repair	$508.48
Speaker wire repair	$1,972.32

Window blind remote	$115.26
Drywall repair	$280.00
Cleaning	$428.40
Total	**$3,304.46**

a. Dishwasher

The landlord testified that the dishwasher was repaired prior to the start of the tenancy. He testified that shortly after the tenant took possession of the rental unit, she reported an issue with the dishwasher to him. He attended the rental unit and saw that the filter screen had a hole in it. He was unsure if it was the result of ordinary wear and tear or if the tenant had damaged it accidentally (perhaps by dropping a knife on it). The landlord testified that, in any event, he replaced the screen at no charge to the tenant. He testified that whenever the screen is removed, the gasket which seals the interior of the dishwasher from the drain needs to be replaced. He testified that he did this when he changed the screen.

The landlord testified that a few months prior to the end of the tenancy the tenant "disassembled" the dishwasher for reasons that were not entirely clear to him. He testified that he did not attend the rental unit to repair this, as he believed it was the tenant's responsibility to repair the dishwasher after such disassembly.

The landlord testified that at the move out inspection he told the tenant that the gasket all would need to be replaced but she told him that it could be reused.

The landlord testified that after the tenancy ended, he hired a technician to repair the dishwasher. He testified that the technician advised him that the seal needed to be replaced and could not be reused. He submitted an invoice for $508.48 confirming that he had incurred this cost

The tenant did not dispute that she removed the filter screen from the interior of the dishwasher. She testified that she did this because the dishwasher had a bad odour coming from it and she was attempting to clean it. She testified that when she removed the filter, she identified water pooling beneath it as the source of the bad smell and demanded that the landlord repair it. He did not. She stated that the seal could be reused and the landlord did not have to incur the technician cost too repair the dishwasher.

b. Speaker wires

The landlord testified that the rental unit had speaker wires run in the ceiling and walls for a sound system. He testified that the prior occupants had their own high-quality speakers which they took with them after the tenancy ended. He testified that a short

piece of wire stuck out from the ceiling and from two places in the walls to which new speakers could be hooked up.

He testified that the tenant trimmed these wires so they would not protrude as much, but doing so caused them to become so short as to be unusable. He asserted that the wires could not be spliced onto to re-lengthen them. Additionally, he testified that the tenant mounted items to the wall of the rental unit and when she did this she drilled through one of the speaker wires. Accordingly, the landlord testified that he had to re-run these speaker wires at a cost of $1,972.32. He submitted a copy of an invoice for this amount.

The tenant denied damaging a speaker wire from the wall. She testified that when she moved in, her brother trimmed one wire protruding from the wall (and not three as the landlord alleged). She testified that she did this because the wire sticking up causing a hazard, and in any event it could have been re-extended by splicing a new wire onto it.

c. Window Blind Remote

The landlord testified that the rental unit had window blinds which were controlled by remote control. He testified that this remote control was missing when the tenant moved out. The landlord purchased a new remote $115.26. He submitted invoice for this amount.

The tenant stated that she inadvertently took the remote with her when she moved out. She stated that due to the “bad circumstances” at the end of the tenancy she did not return it when she discovered she had inadvertently taken it.

d. Drywall

The landlord testified that during the tenancy the tenant had mounted items to the walls of the rental unit using screws. At the end of the tenancy, the tenant removed these items but did not patch and sand the screw holes. As stated above, on March 2, 2021, the landlord sent the tenant’s father away who was in the process of repairing these holes. The landlord testified that the tenant's father was covering the holes with “plastic caps” rather than filling them and that this was not an adequate repair.

The landlord submitted photographs of a number of screw holes in the wall as well as a photograph of a hole covered with a piece of mesh, which the landlord stated was done by the tenant (or her father) and was not a sufficient repair. He did not submit any photos of holes covered with “plastic caps”.

The landlord testified that he hired a contractor off of Craigslist to repair the drywall at a cost of $260. He submitted a copy of an invoice for this amount.

The tenant agreed that she created the holes in the walls. However, she argued that she should not be responsible for the cost of the landlord incurred to have them

repaired, as her father was in the process of repairing them when the landlord sent him away. She submitted a letter from her father and evidence which stated:

> I was in the process of repairing the hole that had been cut into the wall to install a television. While I was doing this repair [the landlord] arrived and insisted that I stop all work leave the premises. I complied will his demand and thus was unable to complete the repair. As far as my ability to do the work, I am a building contractor and have been working in this field for over 40 years so I am will able to do a professional drywall repair.
>
> [as written]

e. Cleaning

The landlord testified that the rental unit had not been adequately cleaned at the end of the tenancy. He testified that the tenant had not cleaned the interior of the refrigerator or stove or inside the seal of the washing machine. He testified that the grout in the bathroom had soap scum. The move out report also recorded that the walls and trim, countertop, exhaust hood and fan word “dirty” as was the wall and trim and ceilings of the entryway. It also stated that the living room walls and trim, closets, and window coverings or dirty, as were the walls and windows in the dining room. It stated that the ceiling, cabinets, tub, sink, and toilet in the bathroom were dirty, as well as the closet and windows of the bedroom. It also recorded the patio door and exterior grounds as dirty.

The landlord submitted a photo of the interior of the bathroom vanity which does not appear to have been cleaned as well as a photo of the exterior patio which has discoloration and debris on it. He submitted several photos of the drywall which, in addition to having holes in them, also have pencil marks. The landlord testified that he hired a cleaner to clean the rental unit after the tenant left. The landlord submitted an invoice dated August 4, 2022 for $428.40 from cleaning company. It did not provide a breakdown of the work done, or of the number of hours spent cleaning the rental unit.

The tenant denied that she failed to adequately clean the rental unit at the end of the tenancy. She testified that she had hired cleaners who cleaned the rental unit the morning of March 2, 2021. She submitted a copy of a text message sent by the one of the cleaners dated March 2, 2020 at 12:32 PM. The cleaner wrote: “hi we did 3h each today $180 total:) thank you!”

The landlord argued that, while the tenant may have hired a cleaner, the cleaner did not clean to the standard required. He stated that the cleaners did not do a “move out cleaning” but rather did a cursory clean of the rental unit.

Analysis

1. Sufficiency of March 2, 2021 Inspection

Section 35 of the Act sets out the requirements about inspections for both parties at the end of the tenancy. It states:

> **Condition inspection: end of tenancy**
> 35(1) The landlord and tenant together must inspect the condition of the rental unit before a new tenant begins to occupy the rental unit
> (a) on or after the day the tenant ceases to occupy the rental unit, or
> (b) on another mutually agreed day.
> (2) The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.
> (3) The landlord must complete a condition inspection report in accordance with the regulations.
> (4) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.
> (5) The landlord may make the inspection and complete and sign the report without the tenant if
> (a) the landlord has complied with subsection (2) and the tenant does not participate on either occasion, or
> (b) the tenant has abandoned the rental unit.

It is undisputed that the tenant attended the rental unit on March 2, 2021 for a move out condition inspection, and that she and the landlord started to inspect the rental unit and recorded their findings on a move out condition inspection report. It is also not disputed that tenant left the inspection without signing the report and that she never signed it afterwards.

The landlord argued that the tenant left before the inspection was completed, and as such she was required to attend the rental unit again to as to be said to have complied with her obligation to inspect, pursuant to section 35(1) of the Act.

I disagree.

The Act is silent as to what constitutes an “inspection”. On the landlord’s own evidence, the tenant was at the rental unit for two hours. Based on the statements made by the tenant in the video, I accept that the entire unit had not been inspected (she stated that they were in the middle of the inspection). However, I do not find that this amounts to a failure to inspect the rental unit.

Additionally, based on the testimony of the parties and the video and audio recording submitted into evidence, I find that the ultimate reason for the inspection ending was the landlord’s repeated demand that the tenant “get the fuck out”.

The landlord's conduct on the recordings is beyond the pale. The audio recording captures the landlord calling the tenant a "fucking cunt" in response to a not-unreasonable comment. Surprisingly, the inspection did not end there. The video recording submitted shows events that occurred after the audio recording, and the again shows the landlord acting in a verbally abusive manner towards the tenant. I acknowledge that the tone of tenant is exasperated when responding to the landlord's comments about damage, but it did not invite the level of response exhibited by the landlord.

I accept the landlord may have been frustrated with the tenant or the condition he found the rental unit. However, this is not an excuse for acting how he did. He swore at the tenant, demanded that she leave, and then petulantly screamed at her when she did not immediately do so. In the circumstances, I find the tenant acted with great restraint. I do not find the landlord's assertion that the tenant was being verbally abusive to be credible.

As such, I reject the landlord's argument that the tenant did not complete an inspection. The inspection was completed to a sufficient degree for the purposes of the Act. In the alternative, if I am incorrect and the inspection was not completed, I find that the landlord is solely responsible for it not being completed.

It is totally unreasonable to expect the tenant to return to the rental unit for a second inspection, given how she was treated by the landlord at the first. To require this would be an invitation for disaster. I have no confidence that the landlord would not have acted in a similar matter at a second inspection.

I do not find that the tenant's failure to sign the move-out inspection report to have caused her to breach the Act or have her right to return of the deposits be extinguished. The landlord ended the inspection before she had an opportunity to sign it. Furthermore, the landlord did not provide her with a copy of the completed inspection report after the fact (as required section 35(5) of the Act) for her to sign. If the tenant's failure to sign was a breach, it was a breach induced by the landlord's conduct. I do not find it reasonable for the landlord to have held back the report and not provide it to her as an incentive to do a second inspection.

As such, I find that a move out condition inspection occurred on March 2, 2021.

2. Effect of an there being a valid inspection

The landlord argued that the tenant's right to the return of the deposits was extinguished because she did not participate in the second inspection, pursuant to section 36(1) of the Act.

However, as I have found that the tenant met the requirements of section 35 (see above), I do not accept this argument.

Indeed, I find that section 36(2) of the Act applies:

> **Consequences for tenant and landlord if report requirements not met**
>
> (2) Unless the tenant has abandoned the rental unit, the right of the landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord
>
> (a) does not comply with section 35 (2) [2 opportunities for inspection],
>
> (b) having complied with section 35 (2), does not participate on either occasion, or
>
> (c) having made an inspection with the tenant, does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

I find that by not providing the tenant with a copy of the condition inspection report, the landlord's right to claim against the deposits is extinguished.

3. Return of the Deposits

Section 38(1) of the Act states:

> **Return of security deposit and pet damage deposit**
>
> 38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of
>
> (a) the date the tenancy ends, and
>
> (b) the date the landlord receives the tenant's forwarding address in writing,
>
> the landlord must do one of the following:
>
> (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
>
> (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Based on the testimony of the parties, I find that the tenancy ended on either March 1 or 2, 2021, and that the tenant provided her forwarding address in writing to the landlord on March 3, 2021 via email. Based on his testimony, I am satisfied that the landlord received this email and deem it sufficiently served for the purposes of the Act.

I find that the landlord has not returned the deposits to the tenants within 15 days of receiving their forwarding address (March 18, 2021), or at all

I find that the landlord has not made an application for dispute resolution claiming against the deposits within 15 days of receiving the forwarding address from the tenant. He made his application on January 27, 2022.

As stated above, I do not find that the tenant's right to the return of the deposits was extinguished. As such, the landlord was required to comply with section 38(1).

The landlord did not do this as he neither returned the deposits nor applied to keep it within the specified timeframe.

Section 38(6) of the Act sets out what is to occur in the event that a landlord fails to return or claim against a deposit:

> (6) If a landlord does not comply with subsection (1), the landlord
> (a) may not make a claim against the security deposit or any pet damage deposit, and
> (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

The language of section 38(6)(b) is mandatory. As the landlord has failed to comply with section 38(1), I must order that they pay the tenants double the amount of the deposits ($4,500). I make this order notwithstanding the fact the tenant has only applied for the return of an amount equal to the deposits as Policy Guideline 17 states:

> Unless the tenant has specifically waived the doubling of the deposit, either on an application for the return of the deposit or at the hearing, the arbitrator will order the return of double the deposit

The tenant has not waived this doubling.

This does not mean that the landlord's application for compensation is dismissed, however. It only means that any amount I find that he is entitled to will be set off against the amount I have ordered that he pay to the tenant.

4. Strata Fine

The act only permits me to make a monetary order against the tenant arising out of breaches of the Act or the tenancy agreement. A breach of a strata bylaw is not a breach of the Act. A breach of a strata by law can only be a breach of tenancy agreement if the tenancy agreement contains a term requiring the tenant to comply with the strata bylaws.

Section 146 of the *Strata Property Act* requires owners of strata units to provide their renters with a "form K" which is a notice of tenants responsibilities, notifying tenants of their obligation to comply with strata bylaws. This section also requires the landlord to

provide the tenant with a copy of the current bylaws. The landlord testified that he provided the tenant with the bylaws and had her sign a “form K”. The tenant denies receiving a copy of the bylaws. She made no submission one way or the other as to whether she signed a “form K”. No “form K” was submitted into evidence.

In the text message chain relating to the removal of the plants from the patio, the landlord wrote that he mentioned the know plant by law to the tenant. When the tenant asks for a copy of a bylaw, the landlord stated that he did not have a copy of the bylaws on hand and that he would have to write to the management company for it.

Based on this, I find it more likely than not that the landlord did not provide the tenant with a copy of the bylaws. If he had, then he should have had a copy readily available to him, or alternately if he had to go to the trouble of obtaining a copy, I find it more likely than not that he would have remembered doing so and reminded the tenant of this during the text message exchange.

In light of this, and in light of the fact the landlord is required to provide the bylaws to the tenant under the *Strata Property Act*, I do not find it appropriate to require the tenant to reimburse the landlord the strata fine. I do not find that the “form K” became part of the tenancy agreement as the landlord failed to provide her with a copy of the bylaws.

Additionally, there is no evidence before me suggesting that the tenant was aware that the landlord would incur a fine if she did not remove the plants by a specific date. I find that after becoming aware that she was in breach of a bylaw by having plants on the patio she acted reasonably quickly to remedy this breach, selling the plants roughly one month later.

As such, I dismiss this portion of the landlord’s application without leave to reply.

5. Damage to the rental unit

Section 37(2) of the Act sets out the condition a tenant must leave the rental unit at the end of the tenancy. It states:

> **Leaving the rental unit at the end of a tenancy**
> 37(2) 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

a. Dishwasher

The parties do not dispute that the tenant disassembled part of the dishwasher. Rather the tenant states that she removed a piece so as to determine the cause of a bad odor emanating from the dishwasher. She argued that it was the landlord’s responsibility to fix this issue, and as such he should be responsible for bearing the cost of its repairs.

The landlord testified that it was not necessary for the tenant to have taken apart the dishwasher in order to determine the cause of the smell. Rather, he stated that she could have run cleaning solution through the dishwasher to eliminate the odor.

Section 32 of the Act requires a landlord to provide and maintain the residential property in a state of decoration or repair which makes it suitable for occupation by the tenant. This would include repairing a faulty dishwasher. The tenant is responsible for maintaining reasonable health cleanliness and sanitary standards throughout the rental unit and for repairing any damage caused by their actions or neglect. The landlord is responsible for making other repairs, include those due to ordinary wear and tear.

As such, if the dishwasher was faulty either due to malfunction or reasonable wear and tear, it was not up to the tenant to repair it. She was not therefore entitled to partially disassemble the dishwasher. She was required to notify the landlord of the problem and he could have taken appropriate steps. I do not find that disassembling part of the dishwasher was necessary for the tenant to be able to maintain reasonable health, cleanliness, or sanitary standards in the rental unit.

I accept the landlord's evidence that it is necessary to replace the seal in the dishwasher after it was removed and that it could not be reused. I find that it was the landlord's responsibility to deal with the issue of the bad odor coming from the dishwasher. I understand his evidence to be that, if he had been altered of the problem, his first step would have been to run a cleaning solution through the dishwasher in order to see if that solved the problem. If this worked, he would not have had to disassemble the dishwasher and incur the associated costs.

By partially disassembling the dishwasher, the tenant deprived the landlord of an opportunity to fix the problem cheaply by running a cleaning solution through it. That being said, I cannot say if this would have solved the problem.

In any event, I find that the tenant exceeded her authority when she disassembled the dishwasher, and this caused the landlord to incur a cost to have the dishwasher put back together and to purchase a new seal. I order the tenant to pay the landlord an amount equal to the cost of the dishwasher technician ($508.48).

b. Speaker wire

The landlord did not provide any documentary evidence that the tenant drilled through the wire when mounting items on the walls of the rental unit (such as photographs or a statement from the technician who replaced the wires). Without such corroborating evidence, I do not find that the landlord has proven on a balance of probabilities that this occurred.

I accept that at least one of the wires was trimmed back, based on the tenant's testimony. However, I am not satisfied that the landlord could not have lengthened the trimmed cables by splicing and soldering wire onto them. Such extensions are not uncommon, and there is no evidence before me which will lead me to think that it would not have been an option in this case. As such, I find that while the tenant did damage the wires by trimming them, the landlord did not act reasonably to minimize his loss. I find he could have incurred less of a loss if he had he extended the wires rather than replace them entirely.

In the circumstances, I find that nominal damages of $100 are appropriate. I order the tenant to pay the landlord this amount.

c. Window Blind Remote

The tenant admits that she inadvertently took the window blind remote at the end of the tenancy and that she did not return it to the landlord. I accept the landlord's testimony, corroborated by an invoice, that he purchased a new remote at a cost of $115.26 to replace the item removed by the tenant. I order the tenant to pay the landlord this amount.

d. Drywall repair

Parties do not dispute that the tenant created holes in the walls of the rental unit. Rather, the tenant argued that had the landlord let her father repair the holes, the landlord would not have incurred any loss. The landlord argued that the tenant's father was not doing an adequate job at repairing the holes.

The only evidence provided to me by either side of the steps taken by the tenant's father is a single photograph of a piece of mesh placed over one of the holes. This photograph does not accord with the landlord's testimony, which was that the tenant's father was placing plastic caps over the holes.

I accept the evidence in the tenant’s father’s letter that he has 40 years experience as a building contractor. I am satisfied that such an individual would be able to repair drywall sufficiently. As such, I find that the landlord failed to minimize his loss by preventing the tenant's father from completing the work he was doing on March 2, 2021.

However, I will note that the repair of these holes would also have included the repainting of the patched areas. I do not understand the tenant’s evidence to be that her father was also going to paint the patched portions of the walls. In the circumstances, I find that even if the landlord had allowed the tenant's father to complete patching the holes, he would not have painted them. As such I find the landlord is entitled to nominal damages of $100 in acknowledgement of the cost he would have had to incur if he let the tenant’s father complete repairing the holes.

e. Cleaning

I accept that the tenant hired cleaners to clean the rental unit prior to the end of the tenancy. However, based on the photographs of the bathroom vanity, exterior patio, and the walls, I accept the landlord's evidence that the level of cleaning they undertook was inadequate in some areas. However, the video submitted by the tenant depicts a main room which appears to be reasonably clean. Additionally, the photos of the damaged cabinetry (for which the landlord has not made a claim) show that the cabinets themselves are reasonably clean.

The cleaning invoice provided by the landlord does not state what cleaning was done or even how many hours it took to clean the rental unit. It lists only a charge for "move out cleaning". I cannot say what this charge represents exactly.

In the circumstances, I find that $428.40 is an excessive amount for cleaning, give that large parts of the rental unit seem reasonably clean. I think it likely that the cleaner may have duplicated some of the cleaning efforts of the tenant's cleaners or cleaned the rental unit to a standard higher than "reasonably clean". I find that half this amount is an appropriate amount for cleaning of the nature required by the landlord. I order the tenant to pay the landlord $214.20.

To summarize, I order the tenant to pay the landlord $1,037.94, representing the following:

Description	Amount
Dishwasher repair	$508.48
Speaking wire - nominal	$100.00
Window blind remote	$115.26
Dry repair - nominal	$100.00
Cleaning - 50%	$214.20
Total	**$1,037.94**

As both parties have been at least partially successful in their applications, they each must bear the cost of their own filing fees.

As stated above, the amount I have ordered the tenant pay the landlord must be offset against the amount I have order the landlord pay the tenant.

Conclusion

Pursuant to sections 62 and 67 of the Act, I order that the landlord pay the tenant $3,462.06, representing the following:

Description	Amount

Double the Deposits	$4,500.00
Offsets	
Dishwasher repair	-$508.48
Speaking wire – nominal	-$100.00
Window blind remote	-$115.26
Dry repair – nominal	-$100.00
Cleaning – 50%	-$214.20
Total	**$3,462.06**

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: March 24, 2022

Residential Tenancy Branch