



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, MNDCL, FFL

Introduction

This hearing was scheduled to deal with four Applications for Dispute Resolution: one filed by the landlord and three filed by the tenant that were joined and set to be heard at the same time.

The tenant filed two applications seeking return of the security deposit, including doubling of the security deposit. In the other application, the tenant requested return of the rent paid for December 2020.

The landlord filed an application seeking compensation for various damages or loss including: the cost of a plumber; costs to repair damage; clean the rental unit; and, costs to obtain and enforce a Writ of Possession.

Both the landlord and the tenant appeared for the hearing. The parties were affirmed and the parties were ordered to not record the proceeding. Both parties had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The hearing was held over two dates and an Interim Decision was issued on November 5, 2021. The Interim Decision should be read in conjunction with this decision.

Procedural Matters

1. Naming of landlord(s)

The landlord's application identified one landlord. The tenant had identified two landlords. When I turn to the tenancy agreement, I see that two landlords are identified on the first page of the tenancy agreement, but only one landlord is named and signed

the signature page of the tenancy agreement. I am unsatisfied the other person identified as landlord on the first page of the tenancy agreement, given that person's failure to appear for either hearing date, and the lack of her signature on the signature page of the tenancy agreement, has privity of contract and standing as a landlord. Therefore, I amended the tenant's applications to name only one landlord, that being the landlord named on the landlord's application, the signature page of the tenancy agreement and who appeared for the hearing.

2. Date of this decision

I acknowledged that section 77(1)(d) of the Act requires a written decision be issued no more than 30 days after the hearing and that this decision is being issued outside of that time limit; however, as provided under section 77(2) of the Act:

(2) The director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30 day period in subsection (1) (d).

Issue(s) to be determined

1. Has the tenant established entitlement to recovery of rent paid for December 2020?
2. Is the tenant entitled to return of double the security deposit?
3. Has the landlord established an entitlement to recovery of \$2000.00 from the tenant for damages and losses under the Act, regulations or tenancy agreement?
4. Award of filing fee(s).

Background and evidence

The tenancy started September 3, 2019 for a fixed term set to expire on June 1, 2020. The tenant paid a security deposit of \$475.00 and was required to pay rent of \$950.00 per month. Upon expiry of the fixed term, the tenancy continued on a month to month basis.

The landlord issued a One Month Notice to End Tenancy for Cause ("One Month Notice") dated September 19, 2020 with an effective date of October 31, 2020. The tenant filed to dispute the One Month Notice and a hearing was held before a different Arbitrator on November 17, 2020. The parties provided consistent testimony that the Arbitrator upheld the One Month Notice and issued an Order of Possession to the

landlord that was to be effective two days after service upon the tenant. The landlord provided the file number for the proceeding that dealt with the One Month Notice and I have recorded it on the cover page of this decision. I confirmed that the Arbitrator presiding over the disputed One Month Notice issued a decision and an Order of Possession on November 19, 2020.

I also saw that on November 20, 2020, the tenant applied for Review Consideration of the Arbitrator's decision and on November 24, 2020 the reviewing Arbitrator dismissed the tenant's Application for Review Consideration and confirmed the decision of November 19, 2020.

The Supreme Court granted the landlord's request for a Writ of Possession on November 27, 2020 and it was executed by the bailiff on November 27, 2020.

Tenant's request for return of security deposit

The tenant made two Application for Dispute Resolution seeking the same remedy, which is return of the security deposit, including doubling of the security deposit; however, I have captured all of the evidence as to her efforts to have the security deposit refunded only once below.

It was agreed upon by the parties that the tenant was removed from the rental unit on November 27, 2020. As to proving the landlord with a forwarding address, the tenant testified that she provided landlord with her forwarding address in various different ways, as follows:

- By having someone at the post office place a letter in the landlord's postal box. The tenant was uncertain as to the date this occurred but stated that the person who deposited the letter in the landlord's mailbox provided an email to her confirming such. The tenant testified that she did not have a copy of the letter or the email before her during the hearing as it was in storage in another city. The landlord did not recall receiving the letter.
- By sending registered mail to the landlord on February 12, 2021, and a search of the registered mail tracking number showed the registered mail package was successfully delivered on February 16, 2021. The tenant provided the registered mail tracking number as proof of service. I noted that the tenant had uploaded registered mail receipts providing for the same tracking number provided to the Residential Tenancy Branch as proof of serving Notice of Dispute Resolution Proceeding dated February 11, 2021 for two Applications for Dispute Resolution

filed by the tenant (file numbers ending in 8993 and 8996). The tenant responded that the landlord received her forwarding address in February 2021.

Under the tenant's Application for Dispute Resolution ending with numbers 3522 the tenant submitted more registered mail receipt, indicating she sent the landlord registered mail on March 9, 2021. As for what was sent on March 9, 2021 the tenant uploaded a copy of a document that provides for a tenant's forwarding address that is undated but, on another copy, there is a handwritten date of "03/08/2021" in the space that provides for a date. A search of the tracking number showed that the registered mail package was successfully delivered on March 24, 2021.

The landlord made his claims against the tenant on May 7, 2021 and I noted that the landlord used the tenant's forwarding address in filing his Application for Dispute Resolution against the tenant. I asked the landlord how he received the tenant's forwarding address. The landlord acknowledged receiving some documents from the tenant via registered mail in February 2021 but he could not recall what documents they were. As for receiving the tenant's forwarding address in particular, the landlord responded that he received "something" with the tenant's forwarding address on it but he could not recall what it was specifically or when he received.

Tenant's claim for return of rent paid December 2020

The tenant submitted that she paid rent to the landlord for December 2020 as she had obtained an Interim Stay with respect to the decision and Order of Possession issued by the Arbitrator on November 19, 2020 and the tenant anticipated that she would be residing in the rental unit throughout December 2020. The tenant submitted that after paying the rent for December 2020 she was removed from the rental unit so the rent payment she made for December 2020 should be returned to her.

I noted that the tenant's documentary evidence supports payment of rent for December 2019, not December 2020. The tenant stated she must have erred in gathering evidence for the relevant period.

The landlord acknowledged receipt of rent from the tenant for December 2020. The landlord submitted that he should be permitted to retain the rent payment as an offset to the losses he suffered as a result of this tenancy.

I informed that parties that, as a delegated Arbitrator for the Director, I have the authority offset amounts owing to each other and that after hearing and analyzing the

landlord's claims I would offset any amounts owing to the landlord against the rent payment the tenant made for December 2020. Both parties indicated they understood this approach and I continued to hear the landlord's claims against the tenant.

Landlord's claim for damages or losses against the tenant

As noted in the Interim Decision, the landlord's Application for Dispute Resolution indicated the landlord was seeking compensation of \$2000.00 but the detailed calculation showed a total of \$2202.03 and the landlord's claim was limited to \$2000.00.

Below is a summary of the amounts the landlord claimed against the tenant followed by the evidence and parties' respective positions.

Landlord's detailed calculation (with names and other identifying information omitted by me for privacy purposes:

1. Security deposit was given \$450.00
2. The pet deposit was not given \$450.00 This leaves a zero balance
3. It is clear [REDACTED] had a pet and she was to disclose this at the beginning of tenancy. Look at the Residential Tenancy Agreement page three of 6. [REDACTED] clearly did not disclose information.
4. Repairs to plumbing water issues stated by [REDACTED]. Here is an invoice which was never paid by [REDACTED]. The plumber and [REDACTED] knocked on the door several times, called her cell number but she would not answer the door for the plumber. The cost for wasting the plumbers time was \$420.53 See Sheet A
5. [REDACTED] Bailiffs Ltd Total cost \$262.50
6. Dispute Resolution Services Date Nov 19th, 2020
7. Supreme Court Writ Of Possession \$120.00
8. The cost and repairs to fix my suite [REDACTED] invoice \$360.00 plus parts \$139.00
9. Cleaning bill which I myself did \$450.00 \$30/hr x15 hours

Total cost \$2,202.03

As for the first three items on the list above, I informed the parties that I may authorize the landlord to retain the security deposit if he is successful in establishing an entitlement to recovery of damages or losses; however, a tenant's failure to pay a pet damage deposit is not a permissible deduction from the security deposit. Nor, is a pet damage deposit payable after a tenancy ends. Rather, any damage caused by the pet may form a basis to seek compensation from the tenant.

I proceeded to hear the parties with respect to items 4 through 9.

Plumber's bill -- \$420.53

The landlord submitted that a plumbing repair was required in the rental unit and he notified the tenant that a plumber would be attending the rental unit. The plumber travelled a significant distance to do the repair but the tenant would not let the plumber in to the rental unit. The plumber called the landlord to inform the landlord that he could tell the tenant was home and there was a dog barking in the unit but the tenant would not open the door. The landlord had given the plumber a key to the rental unit but the plumber would not enter the unit having heard the tenant in the rental unit and a barking dog. The landlord then tried to call the tenant but she did not answer the phone. The plumber left and charged the landlord \$420.53 for the service call but the repair was not made.

The tenant acknowledged that she was notified by the landlord that a plumber would be coming to attend to a plumbing issue in the rental unit but that she informed the landlord that it was not her obligation to let the plumber into the rental unit. The tenant acknowledged that she was home and her dog was barking when the plumber was knocking but she did not let the plumber in since it was the landlord's responsibility to do so and she had told the landlord that.

The landlord responded that even if he was there with the plumber, he would not have felt comfortable opening the door without the tenant's cooperation and the tenant's dog barking. The tenant stated that her dog may have been barking but her dog is friendly.

Writ of Possession and bailiff costs -- \$120.00 + \$262.50

The landlord paid a \$120.00 filing fee to obtain the Writ of Possession and \$262.50 for the bailiff to execute the Writ. The landlord seeks to recover these amounts from the tenant since she did not vacate the rental unit pursuant to the Order of Possession.

The tenant was of the position the landlord illegally had her removed from the rental unit because she had obtained an Interim stay and filed for Judicial Review of the November 19, 2020 decision.

The tenant stated that if the Act permits the landlord to recover these costs from the tenant then she will just include add these issues to her application for Judicial Review.

Cleaning -- \$450.00

The landlord submitted that the rental unit was rented to the tenant furnished. When the tenant was removed from the unit, the rental unit smelled of smoke, the floors required cleaning, along with cleaning behind the appliances and there the furniture was covered in dog hair. The landlord testified that the carpets were cleaned with a carpet cleaner, the walls had to be washed and dog hair removed from the furniture. The landlord submitted that he did the cleaning himself for approximately 30 hours and billed at a rate of \$15.00/hr.

The landlord provided a few photographs of the rental unit in an attempt to show it was not left clean. The photographs demonstrate a significant amount of dog hair on the floor and on furniture.

The landlord's handyman had written a statement dated January 23, 2021 that included the following (landlord's name omitted by me for privacy purposes):

The amount of Dog Hair in the whole residence required many hours of extra cleaning, and one chair was too dirty to even bother cleaning, and was thrown out. In addition to throwing out the said chair, also disposed of the extremely soiled bedding, including a memory foam mattress.

The suite required repainting due to yellow staining on the ceiling that washing was unable to completely remove, and the Pet Odor throughout the suite was intense.

The tenant testified that she left the rental unit "spotless" and "gosh darn nice" and to the best of her ability even though she also stated she expected to continue residing in the rental unit since she had obtained a Stay. The tenant pointed to her photographs in support of her position.

The tenant denied smoking in the rental unit. The tenant acknowledged there was dog hair on the carpeting in the entry area but that area was common property the strata is responsible for maintaining. The tenant acknowledged she did not pull out the appliances to clean under or behind them. The tenant noted that the furniture was not in the same position.

Repairs -- \$360.00 + \$139.00

The landlord submitted that he paid a handyman \$360.00 in labour for 8 hours of work to repair the rental unit after the tenancy ended, plus parts of \$139.00. The landlord

submitted a type-written letter written by the handy man in support of his claims and some photographs. The repairs the landlord seeks to hold the tenant responsible for are as follows:

1. Entry door

The landlord submitted that the entry door was smashed and required repairs and a rebuild of the door jamb.

The handyman's letter states:

Upon arrival to the rental suite, the first thing we noticed was the front doorjamb had been smashed outward to such a degree, the front door and frame required complete removal and re-installation onsite (4 hours). (Pictures taken before beginning repair). The inside door molding was broken completely off, thereby negating the door security chain on the inside, and the door latch wasn't properly functioning, or secure. The Keyed Door Handle was damaged to the point, it had to be replaced. It looked to me like someone had tried to break OUT of the suite very forcefully. (had it been kicked IN as well?) We also discovered many "chew" marks on the door, molding, and throughout the suite. (Door Handle and Misc. Parts, Screws - \$30)

The landlord submitted photographs that appear to show a broken door and door jamb, along with a new door handle.

The tenant acknowledged that the door and/or door jamb were damaged while she was in possession of the rental unit but denied being responsible for the damage. The tenant testified that the door was damaged when the landlord came to serve the Writ of Possession. The tenant described the landlord trying to push the door open while the tenant was trying to push the door closed. Ultimately, the landlord threw the Writ through the door.

The landlord denied there was any pushing/pulling of the door when the Writ was served and the landlord suspects the door damage was caused when the tenant had parties.

The tenant submitted a letter from the RCMP dated November 30, 2020 that the tenant obtained by request. Below, is an excerpt of the relevant content (with names and addresses omitted for privacy purposes):

Dear Sir / Madam

Reference your written request to . RCMP Disclosure Unit on November 26th, 2020. As requested, below is a vetted copy of the Synopsis from the file.

FILE: On 20-11-21 at 0849 reported that her landlord tried to force his way into her residence at . BC and wanted it documented. Cst contacted both parties. stated in part that posted a 2-day eviction notice on her door, she opened the door and took the notice then had to force the door closed on him and lock it. She also stated that and other residents have been bugging her as they wish her to leave. No actual harassment. wanted this documented for her legal actions. stated that he did post the notice, that did come out and take the notice, but no forcing of anything occurred. Furthermore, slammed the door on his face before he could say anything. No witnesses, surveillance, or evidence of anything criminal. stated that she had another file open, but none exists. was advised to have a neutral third party with him during these situations. No other action taken as this is a tenancy issue at most. Concluded

The tenant also provided a photograph of a bruise with a description that it was caused when the landlord used excessive force to try to open the door.

2. Bathroom light switch

The landlord submitted that the light switch was hit and it required replacement.

The handyman's letter states:

The Decora style Switch for the bathroom light had been obviously hit hard enough that it no longer safely functioned, (would not shut the light off or remain off), thereby requiring the circuit to remain open 24 hours a day, and was indeed in my opinion, a potential fire hazard. Switch Replacement ½ hour. (Switch \$4)

The tenant agreed the light switch needed repair because it was not functioning. The tenant attributed the need to repair or replace the light switch as being due to wear and tear but the tenant denied it was hit or damaged by her.

3. Patio light switch and patio light

The landlord submitted that the patio light switch was worn and required replacement. Also, the patio light was hanging from its wires and it had to be reinstalled.

The handyman's letter states:

The switch to the outside patio was worn to the point, it was replaced just in case (potential fire hazard). Both wall mount lights on the Patio were found to be hanging off the wires, in a rather dangerous situation, and required complete removal, cleaning, and proper re-installation on the wall. (3 hours). (Switch \$4 - Misc Parts \$3).

The tenant could not recall the status of the patio light switch. As far as the patio light, the tenant stated that it was approximately 40 years old, held by 4 screws and 2 of the screws were loose. The tenant attributes the need to repair the patio light switch and patio light to age and wear and tear.

The landlord responded that light fixtures do not just fall off and that this likely happened by someone taking the deliberately taking the light fixture off the wall or it was banged and fell off.

4. Toilet

The landlord submitted that the toilet was cracked and leaking, and there was a build up of mildew, requiring replacement of the toilet. The landlord purchased a used toilet from the handyman and paid for it to be replaced. The landlord seeks to hold the tenant responsible for replacement of the toilet because she would not let the landlord and plumber into the rental unit, the tenant's aggressive nature and partying that involved police incidents. The landlord submitted that the toilet that was cracked was approximately 3 to 4 years old.

The handyman's letter stated (landlord's name omitted by me for privacy purposes):

Continuing on we found the toilet tank / bowl was broken and leaking, thereby requiring a replacement of the toilet itself. Upon removal of the toilet, we discovered Black Mold on the back of the tank, indicating that the tank had not been cleaned or maintained in a very long time. As luck would have it, I had a toilet that was used in decent shape, and was able to let [redacted] have it for \$75 (no tax), saving [redacted] the cost of a new one. (replacement toilet price - average \$250 - plus tax) A new Wax Ring was required, in order to remount the toilet. (1 hour - Wax Ring \$13) Misc. parts. (about \$10).

The tenant testified that she did clean the toilet and if there was any mould it would have been from only 2 days between the time she cleaned it and the landlord inspected the rental unit. The tenant denied that there was leaking from the toilet or if there was it would likely be a seal for which she is not responsible. The tenant pointed to photographs she took of the toilet.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons with respect to the applications before me.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. In general, it is up to the party who is claiming

compensation to provide evidence to establish that compensation is due. The burden of proof is based on the balance of probabilities.

Except where specifically provided in the Act, such as section 38, awards for compensation are provided in section 7 and 67 of the Act, and, as provided in Residential Tenancy Policy Guideline 16: *Compensation for Damage or Loss* it is before me to consider whether:

- a party to the tenancy agreement violated the Act, regulation or tenancy agreement;
- the violation resulted in damages or loss for the party making the claim;
- the party who suffered the damages 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.

Tenant's request for return of security deposit

The parties provided consistent testimony that the rent was set at \$950.00 and the tenant paid a security deposit of \$475.00. The tenancy agreement supports the testimony, as does a receipt the tenant provided as proof, that the tenant paid a security deposit of \$475.00. Therefore, I find the landlord is holding a \$475.00 security deposit and not \$450.00 as described on the landlord's detailed calculation.

Section 38(1) of the Act provides that the landlord has 15 days, from the date the tenancy ends or the tenant provides a forwarding address in writing, whichever date is later, to either refund the security deposit, get the tenant's written consent to retain it, or make an Application for Dispute Resolution to claim against it. Section 38(6) provides that if the landlord violates section 38(1) the landlord must pay the tenant double the security deposit.

In this case, I heard consistent testimony from the parties that the end to this tenancy was the subject of a previous dispute resolution proceeding whereby the Arbitrator upheld the landlord's One Month Notice and issued an Order of Possession. Although the tenant submitted evidence that she obtained an Interim Stay and filed for Judicial Review of that previous dispute resolution decision, I also heard consistent statements that the landlord obtained a Writ of Possession from the court and the tenant was removed from the rental unit by the bailiff on November 27, 2020. For purposes of

determining entitlement to return of the security deposit, I consider the end date of the tenancy to be November 27, 2020, when the tenant was removed from the premises.

As for giving the landlord a forwarding address in writing, the landlord acknowledged receiving one for the tenant, and this is consistent with the landlord's use of the tenant's forwarding address to file his Application for Dispute Resolution against the tenant on May 7, 2021; however, the landlord but did not recall how or when he received the forwarding address. As such, I find the tenant has the burden to demonstrate delivery of a forwarding address to the landlord, in writing, more than 15 days before May 7, 2021 to establish an entitlement to return of double the security deposit.

As set out in the Background and Evidence section of this decision, the tenant provided multiple submissions as to when and how a forwarding address was delivered. Although the tenant's evidence that delivery was made by a postal clerk to the landlord's mailbox was weak, I find it am satisfied that the tenant give her forwarding address to the landlord by registered mail, more than once.

On a balance of probabilities, I find the registered mail sent and received by the landlord in February 2021 was likely the hearing packages for two of the Applications for Dispute Resolution the tenant filed. However, included in the hearing packages is the Notice of Dispute Resolution Proceeding that provides for the tenant's forwarding address. Also on a balance of probabilities, I find I am satisfied the registered mail sent and received by the landlord in March 2021 was a form describing the tenant's forwarding address. Accordingly, I find I am satisfied the landlord was in receipt of the tenant's forwarding address in February 2021 and/or March 2021 which is more than 15 days before he filed his Application for Dispute Resolution against the tenant and her security deposit.

Since the landlord's did not refund the security deposit, get the tenant's written consent to retain it, or make a claim against the security deposit within 15 days of receiving the tenant's forwarding address, I find the tenant entitled to return of doubling of the security deposit and I award the tenant \$950.00.

Tenant's claim for return of rent paid for December 2020

It was undisputed that the tenant had paid rent for December 2020 before the bailiff removed her from the premises on November 27, 2020. I accept the tenant's explanation that she paid the rent in anticipation she would occupy the rental unit in December 2020 since she had obtained an Interim Stay of the decision and Order of Possession issued in November 2020 as being logical.

The landlord was of the position the landlord should retain the rent payment received for December 2020 as an offset to the amounts the tenant owes the landlord. The landlord's claims against the tenant were largely disputed by the tenant. As such, I find the tenant entitled to return of the rent she paid for the unit for December 2020, or \$950.00, since the tenancy was over in November 2020 and I will consider off-setting of amounts owed to each other after making a determination as to the landlords' entitlement to compensation from the tenant, as seen below.

Landlord's claims against tenant

Plumber's service call

It was undisputed that the landlord had given the tenant notice that a plumber would be attending the rental unit and the tenant received the notice and anticipated the plumber's attendance.

I accept the tenant's statement that she is not responsible for giving the plumber access and that is the landlord's responsibility under the Act; however, a tenant must not interfere with lawful entry and interference would contravene the Act.

The landlord testified that the plumber was given a key for the rental unit but declined to enter because the tenant could be heard in the unit and her dog was barking. The landlord also testified that he tried calling the tenant and she would not answer the phone. The tenant acknowledged that she knew the plumber was outside her door and her dog was barking and she chose not to answer the door. Further aggravating was that I did not hear any evidence from the tenant that she tried to stop the dog from barking or communicate to the plumber that it was safe for him to enter and/or that the dog was be constrained. While the tenant submits her dog is friendly, I find it would be unreasonable for a third party to enter the dog's territory without the assistance or reassurance of the occupant in the unit that it is safe to do so. Accordingly, I conclude the tenant acted unreasonably and her conduct is consistent with interference of lawful entry by the landlord or the landlord's tradesperson that cost the landlord \$420.53 for a service call that did not result in a repair for which the plumber was hired. Therefore, I hold the tenant liable to compensate the landlord for the cost of the plumber's invoice.

Writ of Possession and bailiff costs

The landlord obtained an Order of Possession and the tenant did not vacate the rental unit in accordance with the Order. As a result, the landlord's remedy was to obtain a Writ of Possession and retain the services of a bailiff, which the landlord did at a cost of \$120.00 plus \$262.50.

The tenant is of the position the landlord illegally had her removed from the unit since she had obtained a Stay. The tenant submitted a copy of an Interim Stay that is date stamped by the court on November 25, 2020 and the tenant submitted registered mail receipts to show she sent it to the landlord via registered mail on November 25, 2020. However, I also note that in the tenant's evidence is a document dated November 26, 2020 whereby she requests the services of the police and on this document the tenant indicates there is "no stay in place" and the bailiff may come at any time with Writ of Possession but that she must serve documents to all parties before a court hearing of December 7, 2020.

From the landlord's evidence, it appears the landlord applied for the Writ on November 26, 2020 and it was obtained and executed on November 27, 2020 before an Interim Stay was served upon him. Based on the evidence before me, I find I am unsatisfied that the landlord illegally obtained and executed the Writ of Possession and I award the landlord recovery of the cost for the Writ and the bailiff, as requested.

Cleaning

Section 37 of the Act requires that a tenant leave a rental unit "reasonably clean" at the end of a tenancy.

The parties were in dispute as to the level of cleanliness in which the rental unit was left. The landlord provided a few photographs that support the landlord's position that there was a significant amount of dog hair in the rental unit. The letter from the landlord's handyman also pointed to staining and pet odors.

The tenant was of the position she left the unit spotless and pointed to her photographs. Although the photographs appear to show clean areas, the tenant's photographs do not show the entire unit or the same areas provided in the landlord's photographs. I also find the tenant's testimony that she left the unit spotless to unlikely since she also

testified that she had expected to live in the rental unit throughout the Judicial Review process.

Given the above, and on a balance of probabilities, I find the landlord's version of events as to the cleanliness of the unit to be more likely than the tenant's version. I find the claim for \$450.00 to be within reason and I award that amount to the landlords, as requested.

Repairs

1. Entry door

The landlord provided multiple photographs of a broken entry door and/or door jamb. The landlord's photographs and testimony were also supported by the handyman's letter. The tenant also acknowledged that the door was broken but the parties were in dispute as to how the door was broken. The tenant attributed the damage to the landlord's conduct in serving the Writ of Possession and the landlord denied the tenant's version of events to be accurate.

The tenant stated the damage occurred when the landlord served the Writ; however, I find her version of events is inconsistent with the RCMP letter. The RCMP letter appears to describe the service of the Order of Possession on November 21, 2020 yet the Writ was served on November 27, 2020. In any event, the landlord denied trying to force his way into the rental unit.

Whether it was service of the Order of Possession or the Writ, I find the tenant's version of events was not corroborated by the RCMP letter. I note that the date the tenant reported the events to the police was November 26, 2020 with respect to an alleged incident of November 21, 2020 when she also filed for police services in an attempt to delay the execution of the writ. I am of the view that if the landlord exhibited excessive force in serving the Order of Possession on November 21, 2020, resulting in damage to the door and a bruise on the tenant, the tenant would have filed a report much sooner. Therefore, I find the tenant did not satisfy me that the landlord caused the damage to the door and since the damage occurred while the tenant was in possession of the unit, I hold the tenant responsible for its repair.

In light of the above, I award the landlord labour of 4 hours @ \$40.00 per hour, plus \$30.00 for parts, as described on the handyman's letter, or \$190.00.

2. Bathroom light switch

The landlord alleged the tenant was responsible for damage to the light switch. The tenant claimed it was worn out due to age.

As provided in section 32 and 37 of the Act, reasonable wear and tear is not considered damage. Nor is a tenant responsible for items in need of replacement due to age of the item. Awards are intended to be restorative. A landlord is expected to repair and maintain a property at reasonable intervals. Where a building element is so damaged that it requires replacement, an award will generally take into account depreciation of the original item. To award the landlord full replacement value of certain building elements that were several years old already would result in a betterment for the landlord.

The landlord did not provide any photographs with respect to the light switch as he did for the other items he claimed (the broken entry door and need for cleaning) and I find the disputed evidence is insufficient to support the landlord's position that the light switch replacement was necessary due to damage caused by the tenant. Therefore, I dismiss this portion of the landlord's claim.

3. Patio light switch and patio light

The parties were in dispute as to the tenant's responsibility for replacement and repair of the patio light switch and patio light fixture.

The landlord's own evidence, being the handyman's letter, points to the light switch for the patio light as being worn out. I heard from the tenant that the building is old and in viewing the photographs, taking into account the building elements and decor, it appears the building is a number of decades old. However, I also note that I was not provided any photographs of the patio light switch and patio light and I am unable to view any damage.

As stated previously, a tenant is not responsible for repairs and maintenance required due to reasonable wear and tear and the aging process. Given the evidence before me, or lack thereof, I find I am unsatisfied that the tenant is responsible to replace a worn light switch and removal, cleaning and re-installation of the patio light due to damage for which she is responsible. Therefore, I dismiss this portion of the landlord's claim against the tenant.

4. Toilet

The parties were in dispute as to whether the tenant was responsible for cracking the toilet.

The landlord did not provide any photographs in support of a cracked toilet so that I may see the existence and location of a crack, if any. Nor was there evidence of water damage to the bathroom or area below the bathroom that I would expect to see if a toilet was cracked and had leaked. Rather, the landlord and the landlord's handyman seem to take issue with mildew on the toilet. While mildew may be a cleaning issue, the landlord submits that the toilet had to be replaced which I do not accept based on the evidence before me. Ultimately, I find the disputed evidence before me is insufficient to establish it is necessary to replace the toilet due to damage caused by the tenant and I dismiss this portion of the landlord's claim against the tenant.

Filing fees, offset of claims and Monetary Order

Both applicants had basis for their claims against each other and I order both parties to bear the cost of their respective applications. Therefore, I make no award for recovery of any filing fees.

In keeping with section 72 of the Act, I have the authority to offset amounts payable to one party against amounts receivable from that party. In keeping with the awards provided above, I offset the amounts owing as set out below:

Amounts due to tenant –	
Return of December 2020 rent	\$ 950.00
Double security deposit	<u>950.00</u>
	\$1800.00
Less: Amounts due to landlord –	
Plumber's invoice	\$ 420.53
Writ of Possession filing fee	120.00
Bailiff cost	262.50
Cleaning	450.00
Repairs to entry door	<u>190.00</u>
	\$1443.03
Net amount due to tenant	\$ 356.97

In keeping with the calculation above, I order the landlord to pay the tenant \$356.97 and I provide the tenant with a Monetary Order in the amount of \$356.97 to ensure payment is made.

Conclusion

Pursuant to the findings and awards made with respect to the four applications before me, I have offset amounts and ordered the landlord to pay the tenant the net amount of \$356.97 in resolution of these matters. I provide the tenant with a Monetary Order in the amount of \$356.97 to serve and enforce.

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: May 31, 2022

Residential Tenancy Branch