



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNDL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order of \$5,970.00 for damage or compensation for damage under the Act; for a monetary order of \$7,700.00 for damages for the Landlord, retaining the security deposit to apply to these claims; and to recover the \$100.00 cost of their Application filing fee. The hearing was adjourned and reconvened twice, as detailed below.

The Landlord, H.Q., and a friend of the Tenant's, S.M. ("Friend"), appeared at the first teleconference hearing and gave affirmed testimony; however, the Friend said that the Tenant was unable to attend, because he had to attend court at the time scheduled for this administrative hearing. The Landlord agreed to an adjournment of the matter.

The second hearing was attended by the Tenant, the Landlords J.M. and H.Q. , who all gave affirmed testimony. The second adjournment occurred, because the complicated nature of the Parties' submissions required more time to review. The Tenant and the Landlord, J.M., attended the third hearing and gave affirmed testimony.

I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. During the hearings, the Tenant and the Landlords were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. The Tenant said he had received the Application and the documentary evidence from the Landlord and had reviewed it prior to the hearings. The Tenant confirmed that he had not submitted any documentary evidence to the RTB or to the Landlord.

Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application; they confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing, and that anyone who was recording it was required to stop immediately.

Issue(s) to be Decided

- Are the Landlords entitled to a monetary order, and if so, in what amount?
- Are the Landlords entitled to recovery of the Application filing fee?

Background and Evidence

The Landlords said that the residential property was new in 2020, and that this was the first tenant to live there. The Parties agreed that the fixed-term tenancy began on October 25, 2020, and ran to October 31, 2021, and was then to operate on a month-to-month basis. They agreed that the tenancy agreement required the Tenant to pay the Landlords a monthly rent of \$2,550.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlords a security deposit of \$1,300.00, and no pet damage deposit. The Landlords confirmed that they still held the security deposit in full for the Tenant. The Tenant confirmed that he vacated the rental unit November 1, 2021.

The Parties agreed that they did a condition inspection of the rental unit prior to the start of the tenancy; however, the Landlord said that despite offering the Tenant two or three opportunities for a move-out inspection, the Tenant never attended the proposed times.

During the hearing, the issue arose regarding the need for the Tenant to have insurance to cover any damage resulting from the tenancy. Clause 11 of the Addendum to the tenancy agreement states: "Insurance: tenant shall maintain a tenant-insurance at all times of the tenancy." Ultimately, the Tenant acknowledged in the hearing that he did not have insurance for the rental unit.

The Landlords submitted a monetary order worksheet with the following claims, which we reviewed consecutively in the hearings.

	Receipt/Estimate From	For	Amount
1	[local countertop shop]	Counter chips, stone floor tile	\$472.50
2	[local paint store]	Painting wall(s)	\$577.50
3	[national hardware store]	Master bedroom carpet	\$1,661.73 \$416.85
4	[local glass vender]	Living room window	\$1,946.52
5	[national hardware store]	Living room hardwood floor	\$2,615.00
6	[carpet & other cleaners]	Carpet & home cleaning	\$420.00
7	Strata	Strata fine - noise	\$50.00
8	RTB	Application filing fee	\$100.00
9	tenancy agreement	Rental loss in Nov. & Dec. 2021	\$5,100.00
10	Landlord	Trips to gather info for repairs	\$200.00
		Total monetary order claim	\$10,945.10

#1 COUNTERTOP CHIPS, STONE FLOOR TILE → \$472.50

The Landlords said that there were four chips in the kitchen countertop, and two in the bathroom floor. The Landlords said they had this repaired, and that they were charged the same as the estimate submitted, therefore, they felt they did not need to submit the invoice.

The Landlords said the counter and tile were new when the Tenant moved in.

The Tenant asked if the Landlords had these fixed, and he said that the estimates "...are kind of high. I didn't know that this happened."

The Landlords responded, saying: "It's stone, and if it's damaged, people will refuse to live in there."

I asked the Tenant why he had not attended the move-out inspection proposed by the Landlords, and he said: "We still had a couple days; I wasn't there at the time, and they just came in and unlocked the door and just came in. It was a few days before the end of the tenancy."

The Landlords said:

It was October 31 and I have informed [the Tenant] many days ago to set up this appointment, and he said yes. And by the time we came, a half hour before he told me he was busy. I gave him three chances to change, he made us wait for half an hour. And then we went up the stairs and knocked on the door and his girlfriend and his mother let us in. He has already agreed in writing to us to enter; I gave him two chances, but he kept making excuses. When we knocked, the girlfriend and the mother was there and let us in. I phoned the RTB many times to ask if I am allowed to go in.

The Landlords submitted photographs of the counter top chips. The first photograph shows a chip out of the edge of the counter, although there is little context to evaluate the size of the chip. The second chip appears similar in size and is again on the edge of the counter above a drawer. The third photograph of the counter chips shows another edge chip about the size of a dime. The fourth photograph is blurry, but shows what looks like a chip/dent in the counter - probably near the sink.

The Landlords also submitted a photograph showing two tiny holes/dents in a piece of tile.

The Landlords submitted an estimate of the cost to repair these counter and tile chips. The estimate described the repairs, as follows: "Repair four chips on engineered stone counters, and 'two little dents' in a stone floor tile. Repairs will be done to the highest industry standard but will not be undetectable." The estimate quoted \$450.00 plus \$22.50 tax for a total of \$472.50.

#2 WALL PAINTING → \$577.50

In the hearing, the Landlord said:

There were two bedrooms. In master bedroom, one side there were holes punched into the wall, and the other bedroom had big holes, too. When we were there November 1, he tried to fix the walls, but it was very, very poorly done. It's still very terrible looking, and I had to have someone professionally paint that. I haven't had the work done, just the estimate done.

I asked the Landlord why they have not had the work done yet, and she said:

It's too expensive, and we don't have the budget, but myself and my husband spent three days there painting it ourselves. It's still not good, because we are not professionals. We did it because we can't afford to have that – it's scary a brand new house and people were scared from the damage.

I asked where their claim for \$577.50 came from, and the Landlord said this was what the painter estimated it would cost a professional to do the job.

I asked the Landlord for more details about this claim, and she said:

The materials are about \$120.00 something... I don't have the receipt. My husband and I went there three to four times - four times. And two days we stayed there for at least six hours. The other two times we stayed there for two hours.

I asked if this work was just for the wall repairs and painting, and the Landlord said:

We tried our best to make the wall smooth by sanding, then we paint it. It's mainly for the walls and cleaning, because the cleaning wasn't done properly. The balcony was full of black and . . .the neighbours complained. Just to clean the balcony would cost too much.

I asked the Tenant about the wall damage, and he said:

On the day in question, I had my family there, but I was out of town. We were fixing that. We had a professional there, but they just wanted me out. It doesn't take six hours. I was honestly so busy at that time. The whole apartment and the balcony was fully cleaned; there was just some damage. The floors were mopped - we even hired a professional cleaner, and did more ourselves. There were small holes, and we would have had it way better done, if we had had more time.

The Landlord replied:

I understand he was busy, and not enough time, and tried to get someone to fix it, but he only paid for October, and he left in November and I didn't charge him. He should have made the time to fix everything before he left.

I asked the Landlord when the rental unit was last painted, and she said: "I rent it to him

brand new. We just got the house in October 2020 and he moved in a few days after we got the key. It had just been built. We got the key in October.”

The Landlord submitted photographs, which showed dents and bumps in the master bedroom wall, which look like someone tried to cover it up, but unprofessionally job.

The Landlord submitted an estimate prepared by a professional painting company. This estimate described the work to be done, as follows:

SITE UNSEEN.

Phone quote for a painter for the day.

Wants two walls repaired as had holes and was patched. To re-patch best we can and two coats to the walls.

Quote includes paint, labour, material and insurance.

Want a baseboard done. Can be done from end to end extra charge is for the trim paint. (depending on product if we can get a quart or a gallon). Approx cost \$25 to \$50 more.

Will need colour and if needed a site visit or pictures and size of walls.

Base Price:	\$550.00
Subtotal:	<u>\$550.00</u>
GST	<u>\$ 27.50</u>
Total:	\$577.50

#3 MASTER BEDROOM CARPET → \$1,661.73 + \$416.85 = \$2,078.58

The Landlord described this claim, as follows:

[The Tenant] was having a party and spilled the colourful drink into the floor – four very big spots. And I have got someone professionally to shampoo the carpet, but it’s still very bad. And plus, in one corner of the carpet beside the bed, it was all black – see photos. I don’t know how – what he’s doing to make it that black? Because of the black, I had the tech who installed the carpet at first, and they were shocked. They thought a leaking pipe was making it mouldy, but no. nothing leaked from pipe; it’s dry, I have already told [the Tenant] regarding this issue, I have sent him two or three emails. That’s why the whole carpet in the room needs to be replaced.

I asked the Landlord to explain the two amounts claimed for this item:

By the time we got this estimated by [national hardware chain], they sent a person to the unit to make an estimate. The first amount is for the material fee and the second amount is the installation fee, which included tax already. That was the promotion at the time, but if I had the money to install right away, but now it will be the material fee and the installation fee.

In the other bedroom: three or four small stains, but a professional cleaned it, it is still there. It's at least reasonable, so I didn't replace it; just the master bedroom.

The Tenant said:

The black is just a kind of eye shadow. I hired two separate people and I scrubbed so much. How do you have to replace a whole carpet for that? It was only in the one bedroom?

I asked the Tenant about the other, larger spots the Landlord mentioned, and he said

Honestly, it's been like two years. Maybe I spilled a little juice. The cleaners got most of it the clean. We tried so hard with the eye shadow – everything.

Also, because the damage was done a year ago, inflation should not be considered. This is like two years ago. I claimed insurance - they don't even like get back to me at all. I think [the Landlord's] been compensated along with my security deposit. They kept calling me to make the claim, so I made the claim, and then I couldn't get hold of anyone to find out what happened. She said if I claimed, it would be alright, so that's why it is shocking to me. Mistakes happen, that's why everyone has insurance.

The Landlord addressed the issue of insurance, saying:

In our rental agreement, we specified that [the Tenant] must carry his own insurance, which he did not do. Second, because he didn't have insurance, I bought insurance for the rental unit, and claimed the claim if they could replace the carpet and the window he broke – he broke the window as well – the huge window. Such huge amounts, I claimed the insurance, but it will call him to see - and I told [the Tenant] - if you tell them how you broke this and that. He didn't answer their phone calls, and they only reimbursed the amount for the floor. They only reimbursed the part you accidentally make to the unit. If he purposely did it, they will not reimburse it. For the floor – the living room and the laminate it's

because they think. ... The window – that hit the floor accidentally, so they did give me money for the floor, but not for the window or the carpet, and even this is my insurance company – I bought the insurance. It's supposed to be him, himself. And I pay for the insurance and the deductible. And they said they are not sure if they want to give me insurance for the next year. If you claim they do not insure you.

The Tenant said: "I made the claim because you promised me that."

The Landlord:

Yes, I promised whatever amount the insurance company reimburses me, I will deduct from the total I claim from you. I emailed you twice how much they have reimbursed, and how much is left for you to reimburse me before today's hearing. If you could e-transfer me about \$8,000 we could do it that way and we could withdraw this claim, but you never respond. Now we have to come to a hearing and more stress.

I asked the Tenant why he did not have insurance and he said: "I'm not sure I have insurance. I said I thought I might. But I don't think I have insurance."

The Landlord submitted a quotation for carpet installation for the master bedroom from a national hardware chain. This includes tearing up and disposing of the existing carpet, as well as providing and installing the new carpet, and it comes to \$1,661.73. However, the Landlord did not direct me to, and I could not find any reference to the \$416.85 the Landlord also claims for this matter.

#4 LIVING ROOM WINDOW → \$1,946.52

The Landlord explained this claim, as follows:

On the night when he had a fight with his girlfriend. He used something heavy and hit the glass – the whole glass was broken into small pieces. The girlfriend was screaming, the neighbours called the police; it was chaotic. The police said that this place was trashed by [the Tenant]. It was a huge living room glass. I don't know what he used to break it.

The Landlord explained that the inside layer of the two-pane glass was damaged.

The Tenant responded:

It was a get-together, and friends of a friend got into an altercation, so the police came. They acted really rough with some of the guests, and some of the damage was done that day.

I asked the Tenant what happened to the window, and he said:

I wasn't in the room at that time. I think mostly the friends of a friend. I didn't know they would do this to my home. When the police did come, and one of my friends was taken down - he was a pretty big guy - I don't know if it happened then. I was in the other room and it got really loud. We tried to deescalate.

The Landlord replied:

It seems that what he said is not true. From the neighbours, they called the police; it was because he had a fight with his girlfriend, himself. There was a letter from the Strata saying what happened and when police came. The neighbours know everything. They reported to Strata. He was taken by the police himself. The window was broken into very tiny pieces. There was glass everywhere, even in the hallway.

The Tenant said:

It wasn't just me and my girlfriend. It was a get-together, and friends of friends and a few girls there. It's still ongoing with the police. My friend is charged with assault, as well. He got put down pretty hard.

The Landlord said that this damage was not covered by insurance. She also noted that this is one layer of the two-pane glass that is damaged. The Landlord obtained an estimate for the repair, which includes new glass, argon gas fill, disposal of the glass, and labour to install.

The Tenant said:

Has it been fixed? No, correct. I tried to get an estimate before, too, ... and they were saying \$500.00 - \$600.00. So, \$2,000.00? They said they only need to change the one layer. I had the handyman come look at it, installed, too. Nothing to back it up. I thought after the warranty, it would be covered.

#5 LIVING ROOM HARDWOOD FLOOR → \$2,615.00

The Landlord explained this claim, as follows:

It's the, there was a no pet policy in the agreement, but he brought a pet, and probably part of it was from the pet scratch. The most important part - it was damaged by falling glass from the window. They were fighting in there and stepped on the glass and that caused a lot of damage on the floor.

The Tenant responded:

I don't have a pet. I took care of a dog for a week. He came to visit here and there. It was my family pet, but he never lives with me full time. How many pieces were damaged? Maybe a couple steps here and there. I got an estimate on that, as well, and I have it in my notes. They said they could take out pieces of hardwood and put in new ones.

I asked the Tenant if he found matching flooring, and he said:

I was trying to get pieces from the manager, They have it all through the building. It's not like the whole floor was done - just a couple pieces here and there.

The Landlord said:

First, the floor was damaged a lot, not a few scratches here and there. I showed the pictures – took the photos and uploaded to website already. However, one good thing, the insurance company approved this part of the claim. The reason I guess, is because [the Tenant] described everything he damaged as accidental. They would only reimburse the part that was accidental. They think the hardwood floor was damaged by the window, but they did not think the window was accidental.

\$2,615.00 – was reimbursed. I told him that if he could pay me the rest of the claim, then he can go ahead and let him go with this part, And plus the insurance company reimbursed me with some rental losses. The total I received \$4,300.00, and I have already told [the Tenant] this. I said if you pay me about \$8,000.00 something, then you will be fine. I told him that, but he ignored my offer. He didn't do anything. So, I'm wondering, do I still have to get this amount deducted.

I asked the Tenant if he had anything else to say about this claim, and he said:

Nothing really. I have no ill intentions toward her. I would always pay on time, two to three months in advance. I didn't do anything on purpose. They would even come and check out the place here and there.

The Landlord said that she was compensated for this claim by insurance.

#6 CARPET AND HOME CLEANING → \$420.00

The Landlord explained this claim, as follows:

They estimated and did it. I have already uploaded my invoice for this amount. A little bit of cleaning inside, but not the balcony. It cost \$400.00 and some to clean, so my husband and myself did the balcony. So, they did the carpets and the inside part. It was roughly done, so it was a bit more deep cleaning.

The Tenant said:

When I got the carpet cleaned at other places, they only charge \$400.00 to \$500.00 or replaced it. When I left, I left it clean. And for a small carpet it shouldn't be that much.

The Landlord said: "Both bedrooms are carpeted." She went on:

Both were very dirty and had drink spilled everywhere, and especially the master bedroom, it was very black one stain. I don't know what he did to blacken the carpet that much. Maybe he was trying to heat something inside the room. It's just weird. So, both rooms needed to be cleaned, however, after cleaning the small bedroom, [the carpet] was mostly cleaned. Only one little stain left. I didn't ask for replacement of that room, but the master bedroom is terribly dirty and black. Without cleaning, nobody wants to live there. It's terrible.

The Tenant said: "I just see that the quotes are kind of expensive from what I got quoted. I know I messed up in not submitting the quotes on time. That's what I have to say. It was mostly double whatever I got for quotes."

I asked the Landlord how she found this cleaning company, and if she price shopped. She said: "I did, they cleaned the carpet professionally. They do this job pretty well, and I got referred from a friend." The invoice did not have any time or hourly rate that was charged, and the Landlord did not know how long it took to do the work.

#7 STRATA FINE FOR NOISE - \$50.00

The Landlord explained this claim, as follows:

[The Strata Council] sent the letter to me by email, and to him, as well. I'm not sure if the last two times he didn't get it, because he did it in October and he moved out on November 1.

There were three Strata fines regarding the dogs. The violation tickets are uploaded already. The Strata manager emailed me, 'He did it again', and over and over [the Tenant] says, 'I don't have anything'. The Strata will go after you for everything.

The Tenant said:

I know I've gotten a few of them, and I've paid them on time. Toward the end all the neighbours hated me; they just kept me getting reported over and over again.

The Landlord said:

The last two in October. It happened in October, but the Strata letter is dated in November. They need time to verify and produce the letter. One was noise and the other was the dog that happened on October 28.

The Tenant said:

These are toward the end of the term, and I paid them off right away when I gave the rent to [the Landlord]. When I paid the final rent, everything was all good. Most of those complaints - most people on the floor hated me after the incident. It was quite loud.

Every time I got something. When we were done everything, I made sure to clear everything up. I never missed rent – I paid three months in advance.

The Landlord said:

The last time he paid the rent was October around 1st or 2nd, and then the noise and the police came happened around October 20th, and the dog happened October 20-something; so, the last two were not paid, because after the last time

he paid the rent, I didn't ask for anything. because it happened in October and he had already moved out.

The Tenant said:

It's just that every time I get these fines, I paid them right away, and I would get charged the next day. I wasn't even in town. I was just having people check the place out, you know what I mean. I didn't live there after the incident.

The Landlord said:

The two times in October, he didn't get the chance to dispute, but you did violate it; there was proof from neighbours and from the police record. He committed the noise and did the damage. Even though if he did get to dispute, he will not get away from the accusation, which is a fact.

The Tenant said: "I'm pretty sure the incident was separate and that was paid off. "

The Landlord said:

I only claimed one of them, and there are two. This is one specified for the noise in October and when the police came – it was undisputable. And there is another one that I didn't claim, but I couldn't find the violation letter to upload it. He didn't pay it.

The Landlord uploaded ten Strata letters setting out bylaw fines or warnings levied against the Tenant from August 9, 2021, through September 28, 2021, in which the Strata imposed a \$50.00 fine against the Landlord (due to the Tenant's activities), which included:

It was brought to the Strata Council's attention that a complaint was received against your unit regarding the noise nuisance on September 28th. The complainant heard yelling from a lady and sounds like people were fighting inside the unit. Later on, police were called. Please note that residents should keep their voice down to prevent disturbance to other residents.

This letter went on to cite the relevant bylaws that were violated by the Tenant and those he permitted in the residential property. The Tenant did not submit any proof that he paid any of the fines levied against him by the Strata.

#8 RTB APPLICATION FILING FEE → \$100.00

At the end of a decision, arbitrators determine whether to award the applicant with recovery of the application filing fee, based on how successful the applicant is. As such, I will determine this claim at the end of this Decision.

#9 RENTAL INCOME LOSS FOR NOV & DEC 2021 → \$5,100.00

I asked the Landlords what efforts they made to find a new tenant, and the Landlord said: "I put an ad in [a national online tenancy site], so people responded to that. And it's for a fee, so I didn't put any amount regarding this in my claim."

The Landlord said that she knew the Tenant has moved out, as follows:

On November 1st he texted me and said he left two keys in the kitchen sink. He was supposed to give me the key one day before. They were still there; I was waiting and they said it's not possible they can finish that night, so the next morning he texted me and I went over. We had an agreement that he would move out before November - at the end of October. He said probably in the middle of October.

In October I started to advertise, when he was still there. I had quite a few people to see, but he refused to let me have a showing.

The Tenant said:

First, I still paid to November 1, and I tried to get a bit more time to get everything fixed up. But she came into the unit while my family and hired workers were there to get everything better. She just wanted us out of there right away. I asked for one more day, but she just pops in – she used her own key on the last day that we had. We asked her for one more day, but she wanted us all out of there. I was out of town for a month, so my family and hired people helped.

I asked the Tenant if he assisted the Landlord by allowing the unit to be shown to prospective tenants, and he said:

I didn't deny that. She came that day when she entered the unit. I just wanted to fix up the place. I didn't know you had to let the people in, if you're paying for that place. I wasn't here to hurt them. I tried to fix everything to the best of my ability.

#10 TRIPS TO GATHER INFORMATION FOR REPAIRS → \$200.00

I asked the Landlord to explain this claim to me, and she said the following:

For estimation and repairs. I, myself, and my husband went to [a national hardware store] two to three times to look at product, pick the right colour, get an estimate for carpets and hard wood flooring. And we went to [a glass store in the city] in person once. That's three times to stores. And there are three times I have to be in the rental unit for estimators to come to measure, and a professional to come to estimate. For cleaning I need to be there to clean the balcony and the painting. It's about ten times going back and forth for this. So, I charged \$300.00. One piece is the \$200.00. I changed it to three. Now I have two pieces in front of me, one is clearly \$300.00.

I asked the Landlord how she calculated the amount she claims:

I charged by the time I go to the store and the rental unit. So even more reasonable than I charged over three hundred. I don't want to over-charge. I charge all the gas and very tiny bit of money for the time. If I go to [the city] once, and it's about one hour of driving to there. That's back and forth two hours driving. Talk to the people. I don't want argument so that's why I put a little. \$500.00 would be reasonable, but I didn't put that down.

The Tenant replied:

I just don't see you have to drive all the way to [the city]. You can't go to [the other city]. And you're finding the most expensive place. Everything should be done on the phone - not going to their place and ask them. I did that the whole week or two after the incident. We would be up early in the morning and late at night. I put in so much work in - like 12 hour days trying to get everything right. Why do you have to drive someplace to hire someone?

I'm so stressed out. I make nothing, I have nothing saved up. Everything I just put into that place. I don't know how I'm going to pay anything. I couldn't even take the day off work. I'm still an apprentice. Why all the way to [the city]? You just have to call someone from your house.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Parties testified, I let them know how I analyze the evidence presented to me. I said that a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim. In this case, the Landlords must prove:

1. That the Tenant violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Landlord to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the Landlords did what was reasonable to minimize the damage or loss.

("Test")

#1 COUNTERTOP CHIPS, STONE FLOOR TILE → \$472.50

Section 32 of the Act requires a tenant to make repairs for damage that is caused by the action or neglect of the tenant, other persons the tenant permits on the property or the tenant's pets. Section 37 requires a tenant to leave the rental unit undamaged; however, sections 32 and 37 also provide that reasonable wear and tear is not damage and that a tenant may not be held responsible for repairing or replacing items that have suffered reasonable wear and tear.

Policy Guideline #1 helps interpret these sections of the Act:

The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act* (the Legislation).

Reasonable wear and tear refer to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or

maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness, and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

As set out in Policy Guideline #16 ("PG #16"), "the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party claiming compensation to provide evidence to establish that compensation is due."

Although I find that the counter chips are small – approximately the size of a dime – the fact that the Tenant chipped the counter four times in one year indicates to me that he was not as careful as he should have been with the Landlord's property. I find that these chips were more than normal wear and tear. However, given the size of the dents or chips in the bathroom tile floor, I find that this part of the repairs is normal wear and tear.

Unfortunately, the estimate did not distinguish between the cost to repair the counter and the cost to repair the bathroom floor. As there were a total of six chips/dents in the counter and bathroom floor, I have divided the total by six for a per chip cost of \$78.75. I award the Landlords with four of the six chip repairs for a total of **\$315.00**, pursuant to sections 32, 37, and 67 of the Act.

#2 WALL PAINTING → \$577.50

The Tenant did not dispute having damaged the wall in the master bedroom; he indicated that he had started to do repairs to the unit, but that he ran out of time. I find from the Parties' testimony and the photographs of the wall that the Tenant left a new rental unit damaged beyond mere wear and tear in this regard. Section 37 of the Act requires tenants to leave the rental unit undamaged. As such, I find that the Tenant is responsible for bringing the rental unit back to the move-in condition.

In terms of the amount the Landlords are claiming, I note that they did not incur this cost, as they chose to do the work themselves. The Landlords said that the wall still looks bad, even after their work. As such, they will have to have it done professionally.

However, for the work needed to be done on two walls, I find that the amount quoted is high. The base amount of \$550.00 divided by \$50.00 an hour comes to eleven hours.

However, that is not only the painters' time to prepare, repair, and paint the walls, but it also includes the paint and other materials and insurance.

Based on common sense and ordinary human experience, as well as my experience as a residential tenancy arbitrator for years, I find that it is reasonable that the painters would take approximately four to six hours to do the work. If the painters charged a more reasonable \$40.00 per hour, this would come to \$240.00 at most, leaving \$310.00 for paint, materials, and insurance, which seems high. Based on these considerations of the evidence before me, I **award the Landlords** with **\$500.00** for this claim, pursuant to section 67 of the Act.

#3 MASTER BEDROOM CARPET → \$1,661.73 + \$416.85 = \$2,078.58

I find that the Tenant's breach of clause 11 of the tenancy agreement addendum means that he had no insurance for the rental unit to cover the cost of repairing damage. Seeing the Tenant's breach in this regard, the Landlords purchased insurance, just in case.

I find that the Tenant initially indicated that he had applied for insurance to cover the damage left in the residential property; however, he later acknowledged that he had never purchased insurance for the unit. I find that this internally inconsistent testimony decreases the credibility and reliability of the Tenant's testimony somewhat.

However, the Tenant did not deny that he was responsible for the stains on the carpets. I find that it is undisputed that the Tenant damaged the carpeting during the tenancy. I find that the Landlord has proven the first cost of replacing the carpeting, as noted above; however, I was unable to find, and the Landlord did not direct me to where I could find an estimate for the \$416.85.

Pursuant to sections 32, 37 and 67 of the Act, I **award the Landlord** with **\$1,661.73** from the Tenant for the replacement of the master bedroom carpet.

#4 LIVING ROOM WINDOW → \$1,946.52

The Tenant acknowledged that the window was broken due to something done by him or a person he permitted on the property. He said it was friends of a friend who were fighting when the window was broken. It was undisputed that the Tenant permitted these people to be present at the his get-together in the rental unit. I find that the Tenant

failed to comply with his obligations under the Act to repair damage that occurred during his tenancy.

The Tenant questioned the amount of this claim, saying that he was told it could be done for much less. However, the Tenant did not submit any estimates he gathered to support his claim in this regard.

Accordingly, I find that the Landlord has sufficiently proven this claim on a balance of probabilities, and I **award the Landlords** with **\$1,946.53** from the Tenant pursuant to sections 32, 37, and 67 of the Act.

#5 LIVING ROOM HARDWOOD FLOOR → \$2.615.00

As the Landlords acknowledged that they were compensated by the insurance company for this claim, I decline to consider this claim any further. I **dismiss this claim** without leave to reapply, pursuant to section 62 of the Act.

#6 CARPET AND HOME CLEANING → \$420.00

The Tenant suggested that the amount claimed for this matter by the Landlord is too expensive; however, the Tenant did not submit any alternate options that the Landlord could have used. The Tenant acknowledged the stains that were on the carpeting, even saying that he unsuccessfully scrubbed as hard as he could to get it out. I find that the Landlord provided sufficient evidence to prove the validity of this claim on a balance of probabilities. I find that the Landlord tried to mitigate their claim by trying to clean the carpets before turning to replacement. As such, I **award the Landlords** recovery of **\$420.00** from the Tenant for this claim.

#7 STRATA FINE FOR NOISE - \$50.00

Based on the evidence before me in this matter, I find that the Landlord has provided sufficient evidence to prove that the Tenant violated Strata bylaws, which resulted in a \$50.00 fine being imposed on the Landlord. As the Tenant acknowledged that an “incident” happened that involved the police, I find that this fine is validly imposed by the Strata and that the Tenant has not paid it yet. Accordingly, I **award the Landlords** with **\$50.00** against the Tenant pursuant to section 67 of the Act.

#8 RTB APPLICATION FILING FEE → \$100.00

At the end of a decision, arbitrators determine whether to award the applicant with recovery of the Application filing fee, based on how successful the applicant is otherwise. As such, I will determine this claim at the end of this Decision.

#9 RENTAL INCOME LOSS FOR NOV & DEC 2021 → \$5,100.00

The Tenant did not vacate the residential property until November 1, 2021; however, he had paid rent to the end of October 2021. The Parties had agreed that the tenancy would end on October 31, 2021, and the Tenant had suggested to the Landlord that he would be out earlier in October.

I find that the Tenant breached the Parties' agreement to be out of the rental unit by October 31st, and therefore, he owes the Landlord rent for November 2021, as the Landlord would not have been able to rent it for that month with the Tenant still there.

Further, I find that the Tenant contributed to the Landlord's failure to find another tenant sooner. I find the Landlord's testimony about the Tenant's unwillingness to allow the Landlord to show the residential property to prospective tenants is more reliable than the Tenant's vague response when I asked him about this. His statement: "I didn't know you had to let the people in if you're paying for that place" indicates that he did not, in fact, allow the Landlord to show the property to prospective tenants.

When I consider the evidence before me on this matter, I find that the Landlords have provided sufficient evidence to prove their entitlement to one month's rent recovery. Accordingly, I **award the Landlords** with **\$2,550.00** from the Tenant pursuant to sections 26 and 67 of the Act.

#10 TRIPS TO GATHER INFORMATION FOR REPAIRS → \$200.00

The claims that the Landlord is making in this matter are not authorized by the legislation. These trips and activities are part of the job of being a landlord. As such, I **dismiss this claim** without leave to reapply.

As the Landlords were largely successful in their Application, I find it reasonable to award them with recovery of the \$100.00 Application filing fee from the Tenant. I **award the Landlords** with **\$100.00** in this regard, pursuant to section 72 of the Act.

Summary and Set Off

I find that this claim meets the criteria under section 72 (2) (b) of the Act to be offset against the Tenant's **\$1,300.00 security deposit** of in partial satisfaction of the Landlords' monetary awards.

	Receipt/Estimate From	For	Amount Awarded
1	[local countertop shop]	Counter chips, stone floor tile	\$ 315.00
2	[local paint store]	Painting wall(s)	\$ 500.00
3	[national hardware store]	Master bedroom carpet	\$1,661.73
4	[local glass vender]	Living room window	\$1,946.53
5	[national hardware store]	Living room hardwood floor	\$ 0.00
6	[carpet & other cleaners]	Carpet & home cleaning	\$ 420.00
7	Strata	Strata fine - noise	\$ 50.00
8	RTB	Application filing fee	\$ 100.00
9	tenancy agreement	Rental loss in Nov. & Dec. 2021	\$2,550.00
10	Landlord	Trips to gather info for repairs	\$ 0.00
		Sub-total	\$7,543.26
		Less security deposit	\$1,300.000
		TOTAL	\$6,243.26

The Landlords are authorized to retain the Tenant's **\$1,300.00** security deposit in partial satisfaction of these monetary awards. The Landlords are granted a **Monetary Order** of **\$6,243.26** from the Tenant for the remaining awards owing, pursuant to section 67 of the Act.

Conclusion

The Landlords are largely successful in their Application, as they provided sufficient evidence to prove their claims on a balance of probabilities to the awarded amount of **\$7,543.26**.

The Landlords are authorized to retain the Tenant's **\$1,300.00** security deposit in partial satisfaction of this claim. The Landlords are granted a **Monetary Order** of **\$6,243.26** for the remaining awards owing by the Tenant.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: September 28, 2022

Residential Tenancy Branch