



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant: CNR, MNDCT, MNRT, RR, FFT, DRI
Landlord: OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with the Tenant's application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent dated July 11, 2022 (the "10 Day Notice") pursuant to section 46;
- a Monetary Order of \$2,250.00 for the Tenant's monetary loss or money owed by the Landlord pursuant to section 67;
- a Monetary Order of \$400.00 for the cost of emergency repairs that Tenant made during the tenancy pursuant to section 33;
- an order to allow the Tenant to reduce rent by \$1,350.00 for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the Tenant's filing fee from the Landlord pursuant to section 72.

This hearing also dealt with the Landlord's cross-application under the Act for:

- an Order of Possession under the 10 Day Notice pursuant to sections 46 and 55;
- a Monetary Order of \$2,000.00 for unpaid rent pursuant to sections 26 and 67; and
- authorization to recover the Landlord's filing fee from the Tenant pursuant to section 72.

The Landlord, the Landlord's agent AG, and the Tenant's agent DF attended this hearing. They were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

All attendees at the hearing were advised that the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings.

Preliminary Matter – Service of Dispute Resolution Documents

AG testified that the Landlord received the Tenant's notice of dispute resolution proceeding package and documentary evidence (collectively, the "Tenant's NDRP Package") less than 14 days before the hearing. AG stated that the Landlord is nevertheless prepared to proceed. Based on AG's testimony, I find that the Landlord was sufficiently served with the Tenant's NDRP Package pursuant to section 71(2) of the Act.

AG confirmed that the Landlord's notice of dispute resolution proceeding package and documentary evidence (collectively, the "Landlord's NDRP Package") was sent to the Tenant via registered mail on August 13, 2022. The Landlord submitted a registered mail receipt and tracking number in support of service. Tracking records indicate the package was delivered on August 17, 2022. I find the Tenant was served with the Landlord's NDRP Package on August 17, 2022 in accordance with sections 88(c) and 89(2)(b) of the Act.

Records indicate that the Tenant had submitted an amendment request to the Residential Tenancy Branch on September 9, 2022 to:

- amend the Tenant's claim for monetary loss or money owed by the Landlord from \$2,250.00 to \$12,000.00;
- add a claim to dispute a rent increase above the amount allowable under the Act, in the amount of \$2,500.00; and
- to seek a return of the Tenant's security deposit in the amount of \$1,000.00.

AG testified that the Landlord did not receive any amendment materials from the Tenant. DF was unable to explain whether the amendment form was served on the Landlord.

However, I find the amendments sought by the Tenant are addressed in the Tenant's evidence package which the Landlord acknowledges having received. I also find that AG responded to the substance of these claims on behalf of the Landlord during the hearing. As such, I find the Landlord to be sufficiently served with the Tenant's amendment request pursuant to section 71(2) of the Act, and I allow these amendments to be made to the Tenant's application.

Preliminary Matter – Tenancy Has Ended

The parties agreed that the Tenant vacated the rental unit on August 31, 2022. I find that the tenancy ended on this date. Since the tenancy has already ended, I find it would not be necessary for me to consider the Tenant's claim to dispute the 10 Day Notice or the Landlord's claim for an Order of Possession under the 10 Day Notice.

Preliminary Matter – Amendment to Landlord's Application

During the hearing, AG stated the Tenant acknowledged in his evidence that he did not pay rent to the Landlord for the month of August 2022, and requested to add this amount. I find the Landlord is seeking to amend her application at the hearing to include a claim for the unpaid August 2022 rent.

Rule 4.2 of the Rules of Procedure states:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I find it can be reasonably anticipated in the circumstances for the Landlord to claim the additional rent that has become owing after July 2022. As such, I amended the Landlord's claim for unpaid rent from \$2,000.00 to \$4,000.00 pursuant to Rule 4.2 of the Rules of Procedure.

Issues to be Decided

1. Is the Tenant entitled to:
 - a. compensation for monetary loss or money owed by the Landlord
 - b. compensation for the cost of emergency repairs
 - c. a rent reduction
 - d. dispute an illegal rent increase, and
 - e. to recover the filing fee?
2. Is the Landlord entitled to:

- a. compensation for unpaid rent, and
 - b. to recover the filing fee?
3. Is the Tenant entitled to the return of the security deposit?

Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of the parties' applications and my findings are set out below.

This tenancy commenced on September 1, 2020. At the time that the tenancy ended, rent was \$2,000.00 per month due on the first day of each month. The Tenant paid a security deposit of \$1,000.00 which is held by the Landlord.

The Tenant submitted a written outline, presented by DF during the hearing, with the following evidence and arguments:

- The parties initially had a one-year tenancy starting on September 1, 2020. The parties entered into a new one-year tenancy agreement from September 1, 2021 to August 31, 2022, under which there was a 15% rent increase.
- The Tenant acknowledged that one bedroom with tile flooring, without heating equipment, without a functional closet (no drywall, no shelf), and with "obsolete devices (switches, plus, shower, toilet etc.)" was added.
- The Tenant argued that the Landlord's rent increase was "illegal" and that the 2021 rent increase should have been 0%.
- The Tenant submitted photographs showing changes and repairs he had made throughout the rental unit, including new switches and plugs, new lighting fixtures, drywall boarded in closet, added shelf for closet, replaced shower, sealed bathroom and kitchen, carpeted bedroom, and painted bedroom. The Tenant stated he also purchased a recycle bin, fixed bathroom fans, installed motion lights, sealed wasp holes, fixed wiring, changed door locks, fixed drain pipes, made repairs for the furnace, and performed insect control.
- The Tenant stated he was permitted to have two roommates under the second tenancy agreement. The Tenant described a dispute over noise between the Landlord and one of his roommates, MS, which resulted in a hearing before the Residential Tenancy Branch. The Tenant stated that after the conflicts, he forced both roommates to move out, and MS repeatedly asked for the Tenant and the Landlord to pay a penalty of \$3,000.00 plus the moving fee. The Tenant stated

he eventually paid MS \$2,250.00, and MS moved out at the end of January 2022. The Tenant indicated he was without roommates for a long time, which was a “major loss”. The Tenant stated the Landlord had agreed to “compensate” for the Tenant’s loss but did not keep her word. The Tenant submitted screenshots of emails from the Landlord dated October 20, 22, and 27, 2021. The Tenant also submitted screenshots of an undated email from the Landlord which states in part as follows:

I agree with you to hold on additional roommate until this matter is solved. Please do not invite any additional person to live with you. On my part I will give you additional discount for the month of November so you may only pay your old rent of \$1,700.00 minus \$200.00 discount I have already given you. Your rent is only \$1,500.00 for the month of November.

[...]

I only see two options and steps in front of me:

You would be able to remove your roommate from my property. [...] At the end of the day if you wish to pay him one month rent than I will reimburse you for half. Please make sure that you have proven (sic) of payment and receipt from him email a copy to me.

If you need my help on the matter please let me know and I will help you any way I could.

Or:

I regret to give you one month notice for cause. Please see attached notice. I would very much appreciate if you vacate my property by November 22, 2021 and take the person staying with you.

For my part I will reimburse you for half of November rent and pay you additional one month rent minus any damages cost if any to my property.

- The Tenant submitted partial screenshots of what appears to be a one month notice to end tenancy for cause issued by the Landlord dated October 21, 2021.

- The Tenant submitted a screenshot of an email from MS dated December 26, 2021 indicating that MS agreed to move out by January 2022. The Tenant submitted a screenshot of an email dated February 6, 2022 to the Landlord indicating that a new roommate has taken MS's room, and that "both roommates' pieces of ID are attached".
- The Tenant included a screenshot of an email to the Landlord dated March 6, 2022, requesting the Landlord for reimbursement of the Tenant's loss.
- The Tenant described various situations that made him feel "unsafe, uncomfortable, inconvenient and intolerable" living in the rental unit, as follows:
 - The Landlord refused to communicate with the Tenant directly and used agents for communication. The Landlord issued multiple notices to end tenancy and canceled the hearings.
 - The rental unit was "constantly cold" because it was an old, wood frame, uninsulated building. The Landlord controlled the thermostat. The Landlord switched off the heating and left on a month-long vacation.
 - There was only one mailbox and only the Landlord had access. The Landlord kept the mail for a long time and it was "frustrating" for the Tenant to wait for the Landlord to deliver the mail.
 - The Landlord installed two cameras on the Tenant's entrance.
 - The Landlord did not maintain the landscaping on the rental property.
 - The Landlord "attempted to control" the downstairs tenants "by operating cameras, standing at balconies and wandering around". The Landlord's son did the same and "took a few glances inside". The Landlord's son threatened the Tenant via Messenger, but all messages have been deleted.
 - Between midnight and five in the morning, the Landlord kicked the floor "almost every single night" to disturb the downstairs tenants.
 - The Landlord declined to inform the Tenant of the reason for an inspection on August 9, 2022 and did not wait for the Tenant to return home before allowing the agents into the rental unit. The Tenant also objected to the Landlord joining the inspection and taking photographs.
 - The Landlord made a claim against the Tenant regarding damage to the fireplace and chimney.
 - The Landlord did not return the Tenant's security deposit and made an application.
- The Tenant stated that he is claiming compensation for rent paid from January (after the parties' first hearing) to June 2022 due to costs relating to maintenance, renovation, necessary repairs, monetary loss for penalties to the

roommate, not having a roommate for a while by the Landlord's request, "harassment", and having an "unpleasant" house for living by the Landlord.

In response, AG submitted on the Landlord's behalf that the Tenant did not pay rent for July or August 2022.

AG submitted that the Tenant did not provide any proof of payment for the penalty which the Tenant said he had paid to his roommate. AG stated that the Tenant had permission from the Landlord to have up to two roommates, and that the agreement was between the Tenant and his roommate only. AG explained that the Tenant's roommate was allowed to stay as the Landlord was not successful in the previous arbitration hearing. AG stated that the roommate left voluntarily in January 2022. AG noted the Tenant mentioned a new roommate moved in February 2022, so the Tenant would not have any loss of income. AG argued that whether the Tenant had roommates or not is also not the Landlord's responsibility. AG stated that the Landlord did not have to, but offered to compensate 50% if the Tenant could get the roommate to move out by October 2021, which was before the first hearing.

AG argued that the Tenant did not submit any proof of emergency repairs done. AG stated that there was an incident involving the chimney and fireplace in the rental unit, but the Tenant refused access. AG stated that the Tenant did not submit any invoices.

AG argued that the Tenant had never sought or received permission from the Landlord to do any of the repairs claimed. AG noted that the Tenant did make many alterations. AG stated the Landlord only became aware of the extent of work done after the Landlord hired AG and conducted an inspection of the rental unit on August 9, 2022. AG stated that since the Tenant is not a plumber, it is dangerous for the Tenant to tamper with the plumbing in the rental unit.

AG stated the Landlord installed two security cameras herself and compensated the Tenant \$250.00 for installing the third camera. AG stated the Landlord never gave the Tenant any permission to do any work other than this on the rental unit.

AG stated the Landlord did not raise the Tenant's rent by 15%. AG stated that originally the tenancy agreement had two tenants and included two bedrooms. AG stated that a year later, the other tenant moved out, and the Landlord entered into a new tenancy agreement with the Tenant who was granted access to a third bedroom. AG stated that

under the new tenancy agreement, the Landlord allowed the Tenant to have two roommates, so the rent was higher.

Regarding the inspection, AG stated that they had tried to agree on a mutually convenient time, but the Tenant did not respond, so the Landlord posted a notice to inspect the rental unit. AG stated that she was at the property on the day of the inspection but never entered the rental unit. AG stated she was in the vehicle with the inspector, J, when they saw someone come out of the rental unit. AG stated that the individual stated his name was "A" and that he lived there. AG stated the inspector told A that they were there to do an inspection, and A said "help yourself, the door is unlocked". AG stated that they had asked A if anyone else was in the rental unit. AG stated that the inspector knocked on the door and no one answered. AG explained that they do not do inspections without another person present, so the inspector asked the Landlord to attend as well. AG stated that it later turned out a third roommate was at home sleeping and did not hear the door knock. AG confirmed that they do inspections to validate a landlord's insurance and also because it is the landlord's right to inspect the rental unit periodically. AG stated that during inspections, they ask if the tenants have any issues with electrical appliances or plumbing. AG stated that the inspections are also to make sure that tenants are abiding by the tenancy agreement.

Regarding the Tenant's complaint about lack of heat in the rental unit, AG stated that there is a fireplace in the rental unit for heating. AG stated that municipal bylaws do not allow the fireplace to be used in the summer.

AG confirmed that the Landlord has filed a separate application to keep the Tenant's deposit, which has been scheduled for a hearing in June 2023.

Analysis

1(a). Is the Tenant entitled to compensation for monetary loss or money owed by the Landlord?

Section 67 of the Act states:

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director

may determine the amount of, and order that party to pay, compensation to the other party.

In this case, I find the Tenant's claim for monetary loss or money owed by the Landlord is based on (a) the penalty paid to the Tenant's roommate, (b) the Tenant's loss of income, and (c) "harassment" and "unpleasant" living, which I find to be a loss of quiet enjoyment claim by the Tenant. I note the Tenant also claimed costs for "maintenance", "renovation", and "necessary repairs" as well, but I will address these issues further below as I find these claims to be duplicated with those mentioned under the Tenant's claim for a rent reduction.

a. Penalty to Roommate

I have reviewed the various email screenshots submitted into evidence by the Tenant. I find that prior to issuing a one month notice to end tenancy for cause, the Landlord had offered to resolve the matter by asking the Tenant to remove his roommate, and to pay the Tenant half if the Tenant compensated his roommate for one month's rent. I find the Landlord presented this offer as one of two options to the Tenant, the second being the issuance of a one month notice but with compensation.

I find there is insufficient evidence to suggest that the Tenant had communicated to the Landlord that he would accept the first offer and remove his roommate in return for partial reimbursement from the Landlord. Furthermore, I find there is no evidence that the Tenant had sent proof of payment to the Landlord as requested in her email.

I find that ultimately, the Landlord did issue a one month notice to end tenancy and the parties went to a hearing to dispute that notice.

Under these circumstances, I do not find the parties to have reached any agreement about the Landlord reimbursing the Tenant for asking his roommate to move out. I note the amount sought by the Tenant (\$2,250.00) on this application also exceeds one whole month's rent for the entire rental unit (\$2,000.00), without a clear basis as to why this should be the case. Moreover, I find the Tenant has not submitted any proof of payment to confirm that he paid \$2,250.00 to his roommate.

Based on the foregoing, I am unable to find that the Landlord has breached the Act, the regulations, or the parties' tenancy agreement in respect of the Tenant's claim for \$2,250.00 paid to his roommate.

Accordingly, I decline to award the Tenant compensation under this part.

b. Loss of Income

The Tenant alleges that the Landlord prevented him from having roommates contrary to their tenancy agreement. However, I find the Tenant has not provided sufficient particulars for this claim to show that he suffered any loss. I find in his email dated February 6, 2022, the Tenant informed the Landlord that his roommate, MS, had moved out, and a “new guy” had taken his bedroom. I find the Tenant has not supplied any details such as a specific period of vacancy or the amount of rent that was being paid by each of the roommates.

Based on the foregoing, I decline to award the Tenant compensation under section 67 of the Act for this claim.

c. Harassment and Unpleasant Living

Section 28 of the Act states:

Protection of tenant’s right to quiet enjoyment

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

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

Residential Tenancy Policy Guideline 6 Entitlement to Quiet Enjoyment states:

B. BASIS FOR A FINDING OF BREACH OF QUIET ENJOYMENT

A landlord is obligated to ensure that the tenant’s entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and

situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

(emphasis added)

In this case, I find the Tenant has not established, on a balance of probabilities, entitlement to compensation for loss of quiet enjoyment for the following reasons:

- I find the Tenant's complaints about communicating with the Landlord through agents and the Landlord taking a long time to deliver mail to be inconveniences which do not amount to "substantial interference with the ordinary and lawful enjoyment" of the rental unit. I note the Tenant provided an example of receiving a letter from the Landlord on August 3, 2022, which had been originally delivered on June 25, 2022. I note the Tenant also submitted a photograph of his roommate's package that was opened on one occasion. However, I do not find these incidences to amount to "frequent and ongoing interference or unreasonable disturbances" that would form the basis for a breach of quiet enjoyment claim.
- The Tenant stated that the Landlord "kicked the floor almost every single night" between "midnight and five in the morning". However, the Tenant has not submitted any evidence such as audio recordings or a noise log to substantiate this claim. I find the Tenant has not provided sufficient particulars or evidence for me to find that the Landlord has unreasonably disturbed the Tenant.
- I do not find security cameras installed on the rental property outside the rental unit to automatically constitute breach of a tenant's right to reasonable privacy under section 28 of the Act. In my view, a landlord may set up security cameras on the property, outside the rental unit, for reasonable security purposes. I have reviewed the photographs submitted by the Tenant and find that the Landlord has two cameras installed on the front side of the property, which are pointed out towards the street and angled downwards. I find these cameras appear to capture the outside areas in front of the property, which would be visible to any person walking by the property or from the street. I find there is insufficient evidence to suggest that these security cameras are intrusive and would record the Tenant while inside the rental unit.

- I find the Tenant has not provided sufficient particulars to support his complaint about the rental unit being too cold. I find the Tenant has not stated any temperature ranges for the rental unit at all. Furthermore, I find the Tenant has not explained why the fireplace would have been inadequate for heating the rental unit.
- The Tenant alleged that the Landlord's son harassed him via Messenger. However, the Tenant has not submitted any communication records from the Landlord's son into evidence. I note the supporting evidence submitted by the Tenant on this issue consists of an email from the Tenant "warning" the Landlord about her son and a "warning" message from the Tenant's roommate, which I note uses profanity and calls the Landlord derogatory names.
- Regarding entry into the rental unit, section 29(1)(b) of the Act permits a landlord to enter a rental unit if, at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes (i) the purpose for entering, which must be reasonable, and (ii) the date and time of the entry, which must be between 8 a.m. and 9 p.m., unless the tenant otherwise agrees. Section 29(2) of the Act further states that a "landlord may inspect a rental unit monthly in accordance with subsection (1)(b)". In this case, I have reviewed a copy of the notice of entry submitted into evidence by the Tenant and find that it complies with the requirements of section 29(1)(b). I find the stated purpose of the entry on August 9, 2022 was to conduct an inspection of the rental unit, which I find to be reasonable. I find the Landlord was entitled to inspect the rental unit on this occasion pursuant to sections 29(1)(b) and 29(2) of the Act. Based on the evidence before me, I do not find the Tenant's right to quiet enjoyment of the rental unit to have been breached as a result of this inspection.
- I have reviewed the photographs of the front yard and side of the property submitted by the Tenant. While I agree that the front lawn looks "dry" and "pale", presumably due to the summer weather, I find the lawn appears trimmed and clear of any debris. I do not find the photos to suggest that the Landlord has failed to maintain the rental property as required under section 32(1) of the Act. Section 32(1) requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety, and housing standards required by law, and having regard to the age, character, and location of the rental unit, makes it suitable for occupation by the tenant. I do not find the Tenant to have demonstrated that the Landlord failed to comply with such obligations. I note I do find the photographs of the side of the property to show waste matter left oddly along the side of the house, on an otherwise tidy-looking gravel pathway. However, without further context as to how this might

have occurred, what the Landlord's response had been, and whether this was more than a one-off incident, I am unable to conclude that there were "frequent and ongoing interference or unreasonable disturbances" that would form the basis for a breach of quiet enjoyment claim.

Based on the foregoing, I am not satisfied that the Tenant has established a breach of quiet enjoyment by the Landlord warranting compensation under section 67 of the Act. I dismiss the Tenant's claim under this part without leave to re-apply.

1(b). Is the Tenant entitled to compensation for the cost of emergency repairs?

Section 33 of the Act states:

Emergency repairs

33(1) In this section, "emergency repairs" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) the primary heating system,
 - (iv) damaged or defective locks that give access to a rental unit,
 - (v) the electrical systems, or
 - (vi) in prescribed circumstances, a rental unit or residential property.

(2) The landlord must post and maintain in a conspicuous place on residential property, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs.

(3) A tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

(4) A landlord may take over completion of an emergency repair at any time.

(5) A landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant

(a) claims reimbursement for those amounts from the landlord, and

(b) gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

(a) the tenant made the repairs before one or more of the conditions in subsection (3) were met;

(b) the tenant has not provided the account and receipts for the repairs as required under subsection (5) (b);

(c) the amounts represent more than a reasonable cost for the repairs;

(d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(7) If a landlord does not reimburse a tenant as required under subsection (5), the tenant may deduct the amount from rent or otherwise recover the amount.

(emphasis added)

On this application, I find there is no evidence to suggest that the Tenant had provided any accounts or receipts for emergency repairs to the Landlord at any time.

Pursuant to section 33(6)(b) of the Act, I dismiss the Tenant's claim under this part without leave to re-apply.

1(c). Is the Tenant entitled to a rent reduction?

Section 32(1) of the Act states:

Landlord and tenant obligations to repair and maintain

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

In this case, I find the Tenant has submitted photographic evidence of various alterations and upgrades that he made in the rental unit. However, I find there is insufficient evidence to demonstrate that the previous conditions of the rental unit did not comply with the “health, safety and housing standards required by law” or otherwise made it unsuitable for occupation by a tenant under section 32(1) of the Act. I find the Tenant did not submit any photographs of the rental unit in its original conditions. Furthermore, I accept the Landlord’s evidence that the Tenant had not notified her of any issues or contacted her prior to making these changes. Based on the foregoing, I am unable to conclude that the alterations were repairs which the Landlord should have made according to the Landlord’s obligations under section 32(1) of the Act. I also accept the Landlord’s evidence that she had neither agreed for the Tenant to make these changes nor agreed to compensate the Tenant for them. Absent an agreement between the parties, I am not satisfied that the Landlord should compensate the Tenant for upgrades to the rental unit which the Tenant had made without the Landlord’s permission.

Based on the foregoing, I find the Tenant is not entitled to a rent reduction for repairs or maintenance under sections 65(b) and 65(f) of the Act. I dismiss the Tenant’s claim under this part without leave to re-apply.

1(d). Is the Tenant entitled to dispute a rent increase?

I find the Tenant acknowledged that an additional room was added under the second tenancy agreement and the Tenant was permitted to have two roommates instead of one. I note the Tenant had complaints about the conditions of the new room. However, I am not satisfied that increasing the rent due to these changes in the new tenancy agreement amounts to a rent increase under the Act and the regulations. I find the Tenant received additional consideration in the form of more living space in exchange for paying more rent. Therefore, I conclude that the Landlord has not increased rent contrary to the provisions of the Act and the regulations.

I dismiss the Tenant’s claim under this part without leave to re-apply.

1(e). Is the Tenant entitled to recover the filing fee?

The Tenant has not been successful in his application. I decline to award recovery of the Tenant’s filing fee under section 72(1) of the Act.

2(a). Is the Landlord entitled compensation for unpaid rent?

I find it is undisputed that the Tenant did not pay rent to the Landlord for the months of July and August 2022. Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether the landlord complies with the Act, the regulations, or the tenancy agreement, unless the Tenant has a right under the Act to deduct all or a portion of the rent under the Act. Having already addressed the Tenant's monetary claims above, I am satisfied that the Tenant did not have a right under the Act to withhold rent. I find that pursuant to section 67 of the Act, the Landlord is entitled to compensation in the amount of \$4,000.00 from the Tenant for unpaid July and August 2022 rent.

2(b). Is the Landlord entitled to recover the filing fee?

The Landlord has been successful in her cross-application. I grant the Landlord's claim for recovery of the \$100.00 filing fee under section 72(1) of the Act.

Pursuant to section 72(2)(b) of the Act, I order that the Landlord is authorized to retain the Tenant's \$1,000.00 security deposit held by the Landlord in partial satisfaction of the total amount awarded to the Landlord in this decision.

The Monetary Order granted to the Landlord for the balance is calculated as follows:

Item	Amount
Unpaid Rent for July and August 2022 (\$2,000.00 × 2 months)	\$4,000.00
Filing Fee	\$100.00
Less Security Deposit	- \$1,000.00
Total Monetary Order for Landlord	\$3,100.00

3. Is the Tenant entitled to the return of the security deposit?

Section 38(4)(b) of the Act states that a landlord may retain an amount from a security deposit or a pet damage deposit if, at the end of the tenancy, the director orders that the landlord may retain the amount.

As mentioned above, I have found the tenancy ended on August 31, 2022. Moreover, I have determined that there is an amount owing by the Tenant to the Landlord for unpaid

rent and have authorized the Landlord to retain the security deposit in partial satisfaction of that amount. Accordingly, I find the Tenant is not entitled to the return of the security deposit pursuant to section 38(4)(b) of the Act.

Conclusion

The Tenant's application is dismissed in its entirety without leave to re-apply.

The Landlord is entitled to compensation of \$4,100.00 from the Tenant for unpaid rent and reimbursement of the Landlord's filing fee.

Pursuant to section 72(2)(b) of the Act, I authorize the Landlord to retain the Tenant's \$1,000.00 security deposit in partial satisfaction of the total awarded to the Landlord.

Pursuant to sections 67 and 72 of the Act, I grant the Landlord a Monetary Order in the amount of **\$3,100.00** for the balance awarded. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 14, 2022

Residential Tenancy Branch