



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCT MNSD FFT**

Introduction

This hearing was convened as a result of the Tenant's application for dispute resolution ("Application") under the *Residential Tenancy Act* ("Act"). The Tenant applied for:

- a monetary order for compensation pursuant to section 67;
- an order to seek the return of all the Tenant's security and/or pet damage deposit(s) pursuant to section 38; and
- authorization to recover the filing fee for the Application from the Landlord pursuant to section 72.

The Landlord, the Landlord's wife ("SL") and the Tenant attended this hearing. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure* ("RoP"). The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The Tenant stated he served the Notice of Dispute Resolution Proceeding and his evidence (collectively the "NDRP Package") on the Landlord by registered mail on April 23, 2022. The Tenant provided the Canada Post tracking number to corroborate his testimony on service of the NDRP Package on the Landlord. The Landlord acknowledged he received the NDRP Package. I find the NDRP Package was served on the Landlord pursuant to sections 88 and 89 of the Act.

The Landlord stated he did not serve any evidence on the Tenant for this proceeding.

Issues to be Decided

Is the Tenant entitled to:

- a monetary order for compensation from the Landlord?
- An order for the return of all of the Tenant's security and/or pet damage deposit(s)?
- recover the filing fee for the Application from the Landlord?

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/or arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of the Application are set out below.

The Landlord stated that, although there was a tenancy agreement, he had misplaced it. The Tenant stated there was never a written tenancy agreement. Notwithstanding the disagreement between the Landlord and Tenant on whether a written tenancy agreement existed, the parties agreed the tenancy commenced on April 1, 2018, on a month-to-month basis, with rent of \$900.00 payable on the 1st day of each month. Based on the foregoing, I find that there was a tenancy between the parties and that I have jurisdiction to hear the Application. The Landlord stated the Tenant paid a security deposit of \$450.00 that he was still holding the deposit in trust for the Tenant. The parties agreed the Tenant vacated the rental unit on February 28, 2022. The Landlord stated the Tenant did not have any rental arrears.

The Landlord stated the parties performed a move-in and move-out inspection while the Tenant stated no move-in or move-out inspection was been performed. Regardless of the disagreement between the parties on whether move-in and move-out inspections were performed, the Landlord did not submit any evidence he had scheduled a move-in or move-out inspection of the rental unit with the Tenant nor did the Landlord submit a copy of either a signed move-in or move-out condition inspection report.

The Tenant stated he served a written notice ("Vacate Notice") on SL on February 17, 2022 advising the Landlord he would be vacating the rental unit on February 28, 2022 and providing his forwarding address for the return of his security desosit. The Tenant submitted into evidence a copy of the Vacate Notice to corroborate his testimony. The Landlord admitted he received the Vacate Notice. The Landlord admitted he did not

make an application for dispute resolution to claim against the security deposit for damages within 15 days of the date the tenancy ended on February 28, 2022.

The Tenant submitted into evidence a copy of a cheque, for \$1,250.00 dated February 28, 2022, that he received from the Landlord. The Tenant stated that \$900.00 was compensation for the last month rent as he vacated the rental unit one month before the effective date of the Two Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice") that was served on him by the Landlord. The Tenant stated the other \$350.00 represented the return of the balance of the Tenant's security deposit of \$450.00, after the Landlord had deducted \$100.00 for damage to a sink ("Sink") in the rental unit. The Tenant stated he did not consent to the Landlord deducting \$100.00 from his security deposit for damage to the Sink. The Tenant stated he was seeking a monetary order for \$550.00 calculated as follows:

Reason	Amount
2 x Security Deposit:	\$900.00
Reimbursement for Last Month' Rent:	\$900.00
Amount already paid to Tenant by Landlord:	-\$1,250.00
Amount Claimed by Tenant:	\$550.00

The Landlord acknowledged he did not make an application for dispute resolution to make a claim against the security deposit for damage to the Sink. unit. The Landlord acknowledged he deducted \$100.00 from the security deposit and only returned only \$350.00 to the Tenant. The Landlord stated he also paid the Tenant \$900.00 as compensation for the Tenant vacating the rental unit one month prior to the effective date of the 2 Month Notice.

The Tenant stated he was also claiming \$7,560.00 from the Landlord for disturbance of his quiet enjoyment. The Tenant stated he was unable to sleep in the rental unit since the tenancy started and it caused him constant stress. The Tenant stated he was forced to frequently stay at his girlfriend's residence. The Tenant stated there was constant noise from upstairs. The Tenant stated there was a large sanitary pipe that ran through the wall of his bedroom that would disturb him at night. The Tenant stated there were

footsteps in the room above his bedroom that also disturbed him. The Tenant admitted he never served the Landlord with a written complaint to inform the Landlord and his family were disturbing him. The Tenant also admitted that he did not make an application for dispute resolution with the Residential Tenancy Branch to seek an order requiring the Landlord to observe his right to quiet enjoyment or seek compensation for disturbance of his quiet enjoyment or seek reduced rent.

The Tenant also stated the Landlord harassed him during the tenancy by asking him to put his boxes away or store them elsewhere. The Tenant stated the Landlord threatened to shut off his cable and internet service when the Tenant told him he wasn't going to pay the rent as a result of a layoff from work.

The Tenant submitted a witness statement from his girlfriend ("NC"). In that statement, NC stated the Tenant would sleep at her residence more than 60% of the time he rented the rental unit. NC stated the Tenant could not sleep well there due to the noise late at night. NC stated the Tenant has a demanding job and needed his rest. NC stated she has been to the rental unit on a number of occasions and heard loud walking above the Tenant's room between 11:00 pm and 1:00 am. NC stated she has also heard the chairs scraping on the floor above. NC stated the Tenant asked the Landlord many times to put pieces of felt on the chairs to reduce the sound of them scraping on the floor.

The Landlord stated the rental unit was pre-existing when he purchased the residential property. The Landlord stated the rental unit has radiant heating and is quite well insulated. The Landlord admitted there is a sanitary pipe in the wall of the Tenant's bedroom that services a toilet on the upper floor of the residential property. The Landlord stated his parents are reluctant to use the toilet that was serviced by the sanitary pipe that went through the wall in the Tenant's bedroom. The Landlord stated he attempted to accommodate the Tenant's requests for quiet by installing new carpet and underlay in the room above the Tenant's bedroom. The Landlord stated he put felts on the bottom of the chairs in the kitchen to reduce the noise when they were moved. The Landlord stated he did not have any noise complaints from the previous tenant. The Landlord stated he never saw NC during the entire tenancy and had no idea who she was. The Landlord denied there was unreasonable disturbance of the Tenant's quiet enjoyment.

The Landlord stated he entered the Tenant's rental unit, after giving the Tenant written notice to enter, in connection with the replacement of the boiler for the residential property. The Landlord stated there was clothing all over the floor and there were empty boxes around the rental unit and he made a request that the Tenant clean it up. The Landlord stated the Tenant was very annoyed by his request and told the Landlord he would get to it. The Landlord stated the Tenant told him that he had a storage locker and the Landlord suggested the Tenant put the boxes in the storage locker.

The Tenant stated the clothing on the floor of his bedroom was clean and that his dirty laundry was in a laundry hamper. The Tenant denied the Landlord placed felts on the chairs in the kitchen as there was constant scraping of the chairs on the floor. The Landlord stated he would replace the felts on the kitchen chairs as the felts would rub off from the tiles in the kitchen. The Landlord stated the rental unit was 1,200 square feet in size. The Landlord stated there was a 4' x 5' storage room in the rental unit with a closet organizer that the Tenant could use to organize his possessions and boxes. The Tenant did not deny the Landlord's testimony on the size of the rental unit or the size of the storage room.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the onus to prove his claims is on the Tenant.

1. Return of Security Deposit

Sections 23(1), 24(1), 24(2), 35(1) through 35(5), 36(1), 36(2) and 38(1) through 38(8) of the Act state:

- 23(1) *The landlord and tenant together must inspect the condition of the rental unit on the day the tenant is entitled to possession of the rental unit or on another mutually agreed day.*
- (2) The landlord and tenant together must inspect the condition of the rental unit on or before the day the tenant starts keeping a pet or on another mutually agreed day, if
 - (a) the landlord permits the tenant to keep a pet on the residential property after the start of a tenancy, and
 - (b) a previous inspection was not completed under subsection (1).

- (3) *The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.*
 - (4) *The landlord must complete a condition inspection report in accordance with the regulations.*
 - (5) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.
 - (6) The landlord must make the inspection and complete and sign the report without the tenant if
 - (a) the landlord has complied with subsection (3), and
 - (b) the tenant does not participate on either occasion.
- 24(1) The right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if
- (a) the landlord has complied with section 23 (3) *[2 opportunities for inspection]*, and
 - (b) the tenant has not participated on either occasion.
- (2) *The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord*
- (a) *does not comply with section 23 (3) [2 opportunities for inspection],*
 - (b) *having complied with section 23 (3), does not participate on either occasion, or*
 - (c) *does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.*
- 35(1) *The landlord and tenant together must inspect the condition of the rental unit before a new tenant begins to occupy the rental unit*
- (a) *on or after the day the tenant ceases to occupy the rental unit, or*
 - (b) *on another mutually agreed day.*
- (2) *The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.*
 - (3) The landlord must complete a condition inspection report in accordance with the regulations.
 - (4) *Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.*

- (5) The landlord may make the inspection and complete and sign the report without the tenant if
 - (a) the landlord has complied with subsection (2) and the tenant does not participate on either occasion, or
 - (b) the tenant has abandoned the rental unit.
- 36(1) The right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if
 - (a) the landlord complied with section 35 (2) *[2 opportunities for inspection]*, and
 - (b) the tenant has not participated on either occasion.
- (2) Unless the tenant has abandoned the rental unit, *the right of the landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord*
 - (a) *does not comply with section 35 (2) [2 opportunities for inspection],*
 - (b) *having complied with section 35 (2), does not participate on either occasion, or*
 - (c) *having made an inspection with the tenant, does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.*
- 38(1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of
 - (a) the date the tenancy ends, and
 - (b) the date the landlord receives the tenant's forwarding address in writing,the landlord must do one of the following:
 - (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
 - (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.
- (2) Subsection (1) does not apply if the tenant's right to the return of a security deposit or a pet damage deposit has been extinguished under section 24 (1) *[tenant fails to participate in start of tenancy inspection]* or 36(1) *[tenant fails to participate in end of tenancy inspection]*.

- (3) A landlord may retain from a security deposit or a pet damage deposit an amount that
 - (a) the director has previously ordered the tenant to pay to the landlord, and
 - (b) at the end of the tenancy remains unpaid.
- (4) A landlord may retain an amount from a security deposit or a pet damage deposit if,
 - (a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or
 - (b) after the end of the tenancy, the director orders that the landlord may retain the amount.
- (5) *The right of a landlord to retain all or part of a security deposit or pet damage deposit under subsection (4) (a) does not apply if the liability of the tenant is in relation to damage and the landlord's right to claim for damage against a security deposit or a pet damage deposit has been extinguished under section 24 (2) [landlord failure to meet start of tenancy condition report requirements] or 36 (2) [landlord failure to meet end of tenancy condition report requirements].*
- (6) *If a landlord does not comply with subsection (1), the landlord*
 - (a) *may not make a claim against the security deposit or any pet damage deposit, and*
 - (b) *must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.*
- (7) If a landlord is entitled to retain an amount under subsection (3) or (4), a pet damage deposit may be used only for damage caused by a pet to the residential property, unless the tenant agrees otherwise.
- (8) For the purposes of subsection (1) (c), the landlord must repay a deposit
 - (a) in the same way as a document may be served under section 88 (c), (d) or (f) *[service of documents]*,
 - (b) by giving the deposit personally to the tenant, or
 - (c) by using any form of electronic
 - (i) payment to the tenant, or
 - (ii) transfer of funds to the tenant.

[emphasis in italics added]

Although the Landlord stated move-in and move-out condition inspections were scheduled and performed, the Tenant denied it. The Landlord did not submit any evidence to corroborate his testimony that he scheduled move-in and move-out inspections with the Tenant. The Landlord did not submit any move-in or move-out condition inspection reports. Based on the foregoing, I find the Landlord has not proven, on a balance of probabilities, that either move-in or move-out condition inspections were scheduled or that move-in or move-out condition inspection reports were completed. As such, I find that the Landlord did not comply with sections 23(3), 23(4), 35(2) or 35(3) of the Act. Based on the foregoing, I find the Landlord's right to claim against the security deposit for damages was extinguished by sections 24(2) and 36(2) of the Act. Based on the foregoing, I find the Landlord had no right to retain \$100.00 from the Tenant's security deposit, regardless of whether there was or wasn't damage to the Sink.

The Tenant stated he served a notice on the SL on February 17, 2022 advising he would be vacating the rental unit on February 28, 2022 and provided his forwarding address. The Landlord admitted he received the Vacate Notice that also provided the Tenant's forwarding address. As the Landlord's right to make a claim against the security deposit for damages was extinguished by sections 24(2) and 36(2) of the Act, the only option the Landlord had was to return the Tenant's security deposit in full within 15 days of the end of the tenancy pursuant to section 38(2)(c) of the Act. The Landlord admitted he did not return all of the Tenant's security deposit within 15 days of the end of the tenancy. I find that, based on the testimony of the parties, the Tenant did not consent to the Landlord retaining \$100.00 of the Tenant's security deposit for damage to the Sink. As such, pursuant to section 38(6) of the Act, the Tenant is entitled to the return of an amount that is double the amount of the security deposit. As the language of section 38(6) is mandatory, I am required to order the Landlord pay the Tenant an amount equal to double the amount of the security deposit, being \$900.00. As the Landlord has returned \$350.00 of the security deposit to the Tenant, I order the Landlord to pay the Tenant \$550.00 calculated as follows:

Purpose	Amount
Return of double security deposit of \$450.00:	\$900.00
Less amount returned by Landlord:	-\$350.00
Amount payable by Landlord to Tenant:	\$550.00

2. Compensation for Disturbance of Tenant's Quiet Enjoyment

Section 28, subsection 32(2) and section 67 of the Act state:

- 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.
- 32(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.
- 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.

Residential Tenancy Policy Guideline 6 ("PG 6") provides guidance on the tenant's entitlement to quiet enjoyment of the property that is the subject of a tenancy agreement. PG 6 states in part:

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.

In determining whether a breach of quiet enjoyment has occurred, it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises.

A landlord can be held responsible for the actions of other tenants *if* it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it.

Compensation for Damage or Loss

A breach of the entitlement to quiet enjoyment may form the basis for a claim for compensation for damage or loss under section 67 of the RTA and section 60 of the MHPTA (see Policy Guideline 16). *In determining the amount by which the value of the tenancy has been reduced, the arbitrator will take into consideration the seriousness of the situation or the degree to which the tenant has been unable to use or has been deprived of the right to quiet enjoyment of the premises, and the length of time over which the situation has existed.*

A tenant may be entitled to compensation for loss of use of a portion of the property that constitutes loss of quiet enjoyment even if the landlord has made reasonable efforts to minimize disruption to the tenant in making repairs or completing renovations.

[emphasis in italics added]

Pursuant to section 28(b) of the Act, a tenant is entitled to freedom from unreasonable disturbance. Section 67 states that, if damage or loss results from a party not complying with the Act, regulations or tenancy agreement, the director has the authority to determine the amount of, and order that party to pay, compensation to the other party. PG 6 makes it clear that there must be substantial interference with the ordinary and lawful enjoyment of the premises. The Landlord must be aware of the interference or unreasonable disturbance so as to be able to take reasonable steps to correct these. However, temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. It is only when there is frequent and ongoing interference or unreasonable disturbances that may form a basis for a claim of a breach of the entitlement to quiet enjoyment. Based on the foregoing, I must

determine whether the disturbance suffered by the Tenant, was unreasonable in all of the circumstances and, if so, the amount of compensation the Tenant is entitled to as a result of the Landlord's failure to comply with section 28(b) of the Act.

The Tenant stated he was unable to sleep in the rental unit since the tenancy started and it caused him constant stress. The Tenant stated there was a large sanitary pipe that ran through the wall of his bedroom that would disturb him at night when water flowed through it. The Tenant stated there were footsteps in the room above his bedroom that also disturbed him. The Tenant stated the chairs in the kitchen would scrape across the floor and he requested the Landlord put felts on the bottom of the legs to the chairs in the kitchen. The Tenant stated that, as a result of the frequent disturbances caused by the Landlord and his family in the upper living space, he was frequently forced to stay at his girlfriend's residence.

The Tenant submitted a witness statement from NC to corroborate his testimony. NC stated the Tenant slept at her residence more than 60% of the time that he rented the rental unit. NC stated the Tenant could not sleep well in the rental unit due to noise late at night. NC stated she has been to the rental unit on a number of occasions and she heard loud walking above the Tenant's bedroom between 11:00 pm and 1:00 am. NC stated she has also heard the kitchen chairs scraping on the floor above.

NC acknowledged the Tenant asked him to put pieces of felt on the kitchen chairs to reduce the scraping on the floor when they were moved. The Landlord stated he put felts on the bottom of the kitchen chairs and replaced them from time-to-time as they wore off from the tile floor. The Landlord acknowledged there is a sanitary pipe in the wall of the Tenant's bedroom that services a toilet on the upper floor of the residential property. The Landlord stated he attempted to accommodate the Tenant's complaints about footsteps above and replaced the underlay and carpet above the Tenant's bedroom. The Landlord stated he did not have any noise complaints from the previous tenant but he did not call the previous tenant as a witness to corroborate his testimony. The Landlord stated he never saw NC during the entire tenancy and had no idea who she was. The Landlord stated he has taken reasonable steps to accommodate the Tenant and he denied the Landlord and his family were unreasonably disturbing the Tenant.

The rent charged by the Landlord, and accepted by the Tenant, reflected the Tenant would be occupying a basement unit over which the Landlord's family was living. The Tenant knew or ought to have known that he would hear noise from the living accommodations over the rental unit that were occupied by the Landlord and his family.

The Tenant did not testify to, or submit any evidence, that would suggest the Landlord and his family were causing unreasonable disturbances such as performing repairs or renovations, playing loud music or hosting noisy parties on a regular basis.

Residing in a multi-family house, where the tenant occupies the basement unit and the landlords occupy the upper unit above the tenant, sometimes leads to noise disputes. A certain level of noise is to be expected, given the location of the tenant's rental unit in the basement of a house. The Landlord and his family are entitled to the use of their living space which includes the ongoing activities of daily living. The Tenant cannot decide how or when the Landlord and his family use the upper living accommodations and for what purposes. The rights of both the Tenant in the basement unit and the Landlord and his family in the upper living space must be balanced.

It was not unreasonable for a member of the Landlord and his family to use the toilet at nighttime. It was not unreasonable for there to be the sound of footsteps above the Tenant's rental unit. It was not unreasonable for kitchen chairs to be moved during normal use. The Landlord had underlay and carpet installed in the room above the Tenant's bedroom. The Tenant did not deny this. The Landlord placed felts on the chairs in the kitchen and stated it was necessary for the felt pads to be replaced from time to time as the felts rubbed off as a result of the tile floors. The Tenant disputed the Landlord's testimony that the Landlord had placed felts on the chairs in the kitchen as there was constant scraping of the chairs on the floor. Based on my assessment of the credibility and demeanour of the Tenant, I prefer the testimony of the Landlord and find that the Landlord was replacing the felt pads from time to time to minimize the noise from the kitchen chairs.

Although the Tenant testified to, and submitted a witness statement from NC, about noise emanating from the living space above the Tenant's rental unit, this in itself does not establish the Tenant was *unreasonably* disturbed by the Landlord and his family. Based on the Landlord's testimony, I find the Landlord was sensitive to the Tenant's complaints about noise and he took steps to accommodate the Tenant. Although the Tenant and TC indicated that the Tenant stayed at TC's residence at least 60% of the time, it is just as likely that it was more convenient for the Tenant to stay at NC's residence as it was that the Tenant was forced to stay at NC's resident because of noise coming from the living space above the rental unit. Based on the foregoing, I find that the noises referenced by the Tenant were temporary inconveniences and not an unreasonable disturbance as outlined in PG 6. I also find that the noises referenced by the Tenant were reasonable noises from the activities of daily living by the Landlord and his family. As such, I find the Tenant has failed to provide sufficient evidence of a loss of

quiet enjoyment. Accordingly, I find the Tenant has not demonstrated, on a balance of probabilities, that his right to be free from unreasonable distance was breached by the Landlord as a result of any noise disturbances.

The Tenant stated the Landlord harassed him during the tenancy because he asked him to remove his clothing from the floor of the rental unit and to put his boxes away or store them elsewhere. The Landlord stated that, when he entered the Tenant's rental unit during replacement of the boiler for the residential property, he observed there was clothing all over the floor and there were empty boxes around the rental unit and he made a request that the Tenant clean it up. The Tenant stated the clothing on the floor of his bedroom was clean and that his dirty laundry was in a laundry hamper. The Landlord stated the rental unit was 1,200 square feet in size and had a 4' x 5' storage room with a closet organizer that the Tenant could use to organize his possessions and boxes. The Tenant stated that the Landlord threatened to shut off his cable and internet service when the Tenant told him he wasn't going to pay the rent as a result of a layoff from work. The Tenant did not provide any testimony, or submit any evidence, that the Landlord actually disconnected his cable or internet service.

Section 32(2) of the Act requires that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. A landlord has the right to ensure a tenant is maintaining a rental unit in accordance with the requirements of section 32(2) of the Act. The Tenant did not dispute the Landlord's testimony that there were clothes on the floor or that there were boxes located throughout the rental unit. As such, the Landlord made a legitimate request for the Tenant clean up the rental unit to comply with the Tenant's obligations under section 32(2). As such, I find the Tenant has not, on a balance of probabilities, demonstrated that the Landlord was harassing him. Based on the foregoing, I find Landlord has not breached section 28(b) of the Act in respect of the Landlord's requests that the Tenant remove his clothing from the floor of the rental unit or to put his boxes away or take them to his storage locker.

Based on the testimony and evidence of the parties, I find the Tenant has not established, on a balance of probabilities, that the Landlord breached his right to be free from unreasonable interference or disturbance of his right to quiet enjoyment, either on the basis of his complaints regarding noise from the Landlord's living space above or as a result of the Landlord's requests for the Tenant to comply with the standards imposed on the Tenant pursuant to section 32(2) of the Act. Based on the above, I dismiss, without leave to reapply, the Tenant's claim for compensation for breach of his right to quiet enjoyment under section 28(b) of the Act.

3. Filing Fee for the Application

As the Tenant has been partially successful in the Application, he may recover the \$100.00 filing fee from the Landlord pursuant to section 72(1) of the Act.

Conclusion

Pursuant to sections 38.1 and 72 of the Act, I order that the Landlord pay the Tenant \$650.00.00 calculated as follows:

Description	Amount
Return of double the security deposit of \$450.00 (2 x \$450.00)	\$900.00
Recovery of filing fee of Application	\$100.00
Credit for partial return of security deposit	-\$350.00
Total	\$650.00

The Tenant must serve this decision and attached order on the Landlord as soon as possible after receiving a copy of it from the Residential Tenancy Branch.

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: November 14, 2022

Residential Tenancy Branch