

DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- filing fee from the Tenant under section 72 of the Act

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

Facts and Analysis

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

To be awarded compensation for a breach of the Act, the landlord must prove:

- the tenant has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the landlord acted reasonably to minimize that damage or loss

While previous decisions were referenced in the hearing, section 64(2) of the Act states that I am not bound to follow those decisions and as such they will not be referenced as a result.

Evidence was provided showing that this tenancy began in 2016 and ended on August 31, 2022. The Landlord's monetary claim is as follows:

ITEM	DESCRIPTION	AMOUNT CLAIMED
1	Laminate top replacement	\$1,062.88
2	Laminate measurement	\$99.00
3	Moen kitchen faucet	\$400.00
4	Painting for entire suite	\$1,200.00
5	Heat control replacement	\$150.00
6	Labour	\$1,000.00
7	Draino	\$23.66
8	Draino	\$17.34
9	Draino	\$14.54
10	Filing fee	\$100.00
TOTAL		\$4,067.42

Items 1, 2 and 6, the Landlord has claimed \$1,062.88 for laminate top replacement due to water damage plus the \$99 measurement fee and \$1,000 in labour.

The Landlord and their counsel submit that Tenant installed a portable dishwasher in the rental unit, which the Landlord knew about and did not ask the Tenant to remove. The countertop was new in 2018 and photos presented showed some swelling in the joint of the laminate counter to the left of the sink. The photos were somewhat blurry and show a piece of wood with a light to show what is a small raise where the joint is but appears to be minor. The Landlord submitted receipts for the costs.

Tenant's counsel referred to the North American Architectural Woodwork Standards (NAAWS) and presented that the Tenant was not negligent due to substandard installation by the landlord's contractor. Tenant's counsel submits that by having the sink cutout located much closer to the corner joint than the 18" minimum specified by High Pressure Laminate (HPL) countertops, does not comply with the NAAWS standard of sink cutouts not failing within 18" of a discretionary installer joint.

Tenant's counsel stated that the joint to the left of the sink is much closer than 18" based on the Landlord's photos, which show the cabinet doors below the sink being what I find appears to be less than 6" from the sink edge based on the photo supplied by the Landlord, which I have zoomed in to view. I find the left lower cabinet door below the sink extends to the middle of the sink. As such, I award no compensation and dismiss all sink related claims due to substandard installation. I agree with Tenant's

counsel that the installer should not have placed a discretionary joint in the HPL so close to a sink and by doing so, that caused the swelling, not negligence by the Tenant. Items 1, 2 and 6 are dismissed without leave to reapply due to insufficient evidence.

Item 3 the Landlord has claimed \$400 for the cost of a new Moen faucet due to the Tenant removing and then losing the aerator when installing a portable dishwasher in the rental unit. The Landlord submitted a receipt for the cost and photo evidence presented shows the old faucet next to the new one installed in the rental unit. The amount of the faucet included the labour to install it according to the working charge estimate.

Tenant's counsel claims the Landlord did not comply with section 7 of the Act to minimize their cost and should only be charging for the cost of the aerator itself. I disagree. I find the Tenant's actions by losing the aerator does not force the Landlord to source out and attempt to find a new aerator that fits a part that was removed and lost by the Tenant. The Tenant's replacement aerator did not fit, which supports my finding and is supported by the photo evidence. I find the Tenant's actions to be negligent and that they owe the full amount of the new faucet due to installing something without permission and damaging the existing faucet.

Tenant's counsel confirmed with the Tenant that the faucet sprayer did not spray the way it showed in the photos during the tenancy, which I find are not convincing or consistent with a missing aerator. I decline to apply depreciation given that the total cost includes labour to remove the damaged faucet, which I find the Tenant damaged by losing the aerator, and install the new faucet, which I find is reasonable.

The Tenant also referred to a lifetime warranty on the original faucet, which the Landlord's counsel clarified does not cover installation errors, which I find the Tenant created by losing the original aerator. I find the Tenant was required to return the faucet to the original condition and failed to do so.

Item 4, this item is dismissed in full without leave to reapply, as the tenancy began in 2016 and ended in 2022, and the useful lifespan of interior paint as per RTB Policy Guideline 40 (PG40) is 4 years. I find the claim of \$1,200 is 100% depreciated as a result.

Regarding item 5, the Landlord has claimed \$150 for a heat control panel which the Landlord stated was broken in December 2023, which I find is after the tenancy ended

in August 2022. This item is dismissed without leave to reapply as a result, due to insufficient evidence.

Items 7, 8 and 9, which were all for Draino, all items are dismissed due to the receipts being historical. I find that it is more likely than not that the Landlord had Draino on hand and used it as part of regular maintenance. These items are dismissed without leave to reapply, due to insufficient evidence.

Item 10 relates to the filing fee, which I grant as the Landlord's claim was partially successful, under section 72 of the Act.

Conclusion

I grant the Landlord a Monetary Order under section 67 of the Act in the amount of \$500, which is \$400 for item 3 and the \$100 filing fee.

The Landlord is provided with this Order in the above terms and the Tenant(s) must be served with **this Order** as soon as possible. Should the Tenant(s) 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 Act.

Dated: March 6, 2024

Residential Tenancy Branch