



Dispute Resolution Services
Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This reconvened hearing dealt with an application filed by both the Tenants and the Landlord pursuant to the Residential Tenancy Act (the “Act”):

The Tenants applied for:

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

The Landlord applied for:

- a Monetary Order for unpaid rent pursuant to section 67 of the Act
- A Monetary Order for damage to the rental unit or common areas pursuant to sections 32 and 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67 of the Act
- authorization to retain all or a portion of the tenant’s security and pet damage deposit in partial satisfaction of the monetary order requested pursuant to section 38 of the Act
- authorization to recover the filing fee for this application from the tenant pursuant to section 72 of the Act

The hearing began on July 25, 2024, Tenants ED and HD attended the hearing for the Tenants. Landlord JA attended the hearing for the Landlord with CA attending as their support person.

The hearing was adjourned to a later date and an Interim Decision was granted on July 29, 2024. This Interim Decision is incorporated by reference and should be read in conjunction with this Decision.

The hearing reconvened on October 15, 2024, Tenants ED and HD attended for the Tenants. Landlord JA attended the hearing for the Landlord with CA attending as their support person. An interim Decision was granted on October 15, 2024, in which the hearing was adjourned to December 12, 2024. This Interim Decision is incorporated by reference and should be read in conjunction with this Decision.

At the reconvened hearing on December 12, 2024, Tenants ED and HD attended for the Tenants. Landlord JA attended the hearing for the Landlord with CA attending as their support person.

Preliminary Matters

Previous Disputes

During the hearing, the parties drew my attention to previous disputes between the parties including File Numbers 910146373, 910150665, and 910116410. File Number 910176373 was joined with File Number 910147203 and lists 910130789 as related to these matters. As the past disputes have been brought to my attention, I will review and consider the decisions associated with these disputes in so far as they may be relevant to the matters I must determine in the applications presently before me.

Security and Pet Damage Deposits

The Landlord applied for authorization to retain all or a portion of the Tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38 of the Act. However, the matter of the Tenants' security and pet damages deposits were conclusively dealt with in a Decision dated May 8, 2024 (File Number: 910150665). Therefore, I find that this application is *res judicata*, meaning that it has previously been adjudicated by a competent court and may not be pursued further by the same parties. For this reason, I have amended the Landlord's application to remove this claim.

Enforcement of Past Orders

The Landlord applied for the enforcement of a Monetary Order in the amount of \$1,750.00 dated April 18, 2024 (File Number 910146373/910147203). However, as the Landlord was informed during the hearing, the Residential Tenancy Branch does not

enforce orders. As this matter has been previously decided, I find it is *res judicata* and can not be re-adjudicated. For this reason, I have amended the Landlord's application to remove this claim.

Service of the parties' Proceeding Packages and Evidence

My findings on service of the parties Proceeding Packages and Evidence can be found in the Interim Decision dated July 29, 2024, which is incorporated by reference in my decision.

With that said, it appears no finding was made regarding the Tenant's evidence in response to the Landlord's application. The Tenant's provided a Canada Post Tracking Number to confirm that they served the Landlord with evidence in response to the Landlord's claim on July 10, 2024. A review of the Canada Post Tracking website shows that this evidence was received on July 15, 2024.

Rule of Procedure 3.15 states that the respondent, in this case the Tenants, must ensure that all evidence they intend to rely on at the hearing is received by the applicant, in this case, the Landlord, not less than seven days before the hearing. As the Tenants evidence supports that the Landlord received the evidence on July 15, 2024, I find that the Landlord received the Tenant's evidence in response to the Landlord's application not less than seven days before the hearing. For that reason, I find the evidence is properly before me in this dispute.

Issues to be Decided

Tenant's Application

Are the Tenants entitled to a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement?

Are the Tenants entitled to authorization to recover the filing fee for this application from the Landlord?

Landlord's Application

Are the Landlords entitled to a Monetary Order for unpaid rent?

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

Are the Landlords entitled to compensation for damage or loss under the Act, regulation or tenancy agreement?

Are the Landlords entitled to recover the filing fee for this application from the Tenants?

Background

I have reviewed the evidence that is properly before me, including the testimony of the parties, but will refer only to what I find relevant for my decision.

A copy of the written tenancy agreement is submitted into evidence. The tenancy agreement shows that this tenancy began on July 10, 2022. Monthly rent of \$1,850.00 was due on the first day of the month.

The parties disagreed as to the date the tenancy ended. However, in a decision dated April 18, 2024, regarding File 910146373, the Arbitrator determined that this tenancy ended on March 27, 2024. I accept this to be the case.

The parties disagree as to whether a Move-In Condition Inspection Report was completed. The parties agreed that no Move-Out Condition Inspection Report was completed with the participation of both parties and disagree as to why this did not take place.

Tenant's Application

The Tenants are seeking a Monetary Order in the amount of \$7,585.99 as follows:

	Item	Amount
1.	Necklace	\$794.08
2.	Socket Set	\$167.99
3.	Jerry Can	\$30.23
4.	Screwdriver	\$81.74
5.	AAA Batteries	\$19.03
6.	Shopping Bags x 4	\$17.92
7.	Disturbance of personal space	\$5,550.00
8.	Repairs not completed	\$925.00
Total:		\$7,585.99

Items 1-6 – Missing Items

The Tenants allege that on March 8, 2024, the Landlords entered the rental property without notice and stole their personal belongings. The Tenants submitted photographs

and videos to support this claim. The Landlord disputes that they entered the rental unit without notice and submitted that they did not steal the Tenants' personal belongings.

Item 7- Disturbance of Personal Space

The Tenants testified that they are seeking \$5,500.00 because the Landlord illegally disturbed their space. The Tenants testified that they had to clean up the mess left by the Landlord when they entered the rental unit on March 8, 2024. The Tenants testified that the Landlord did not follow the rules and entered the property on the same day they posted the Notice. The Tenants testified that contrary to the Landlord's submissions, they had not abandoned the rental unit.

The Landlord testified that they did not enter the rental unit illegally and submitted that the Tenants had not paid rent and appeared to have abandoned the rental unit. The Landlord testified that they posted many notices prior to entering the rental unit on March 8, 2024.

Item 8 – Repairs not completed

The Tenants referred to a decision dated January 31, 2024, regarding File Number 910116410 in which the Arbitrator made the following order:

As the extent of the repairs are unknown to me, I make the following orders under s. 62 of the Act:

1. The Landlord shall retain a professional qualified inspector to conduct an inspection of the rental unit to inspect for any code or safety violations that would breach health, safety, housing standards required by law.
2. The inspector will also note any deficiencies with respect to the state of decoration of the rental unit having regard to its age, character, and location. To be clear, this does not mean replacing old with new, though if there is a window missing trim, it should be noted.
3. The cost of the inspection shall be borne entirely by the Landlord.
4. The inspector will conclude their inspection by no later than March 15, 2024.
5. The inspector will prepare a written report to be provided to both parties.
6. The report will note any required repairs with supporting photographs (if necessary).
7. Any repairs noted within the inspection report will be completed by a professional qualified to undertake those repairs. Those professionals will be retained by the Landlord and the cost for the repairs shall be paid by him. The repairs shall be completed by no later than April 30, 2024

The Tenants testified that the Landlord did not follow the orders as set out above, and for that reason, the Tenants were forced to live in mold. The Tenants are seeking \$925.00 in compensation which is equivalent to half a month's rent.

In response, the Landlord conceded that they did not complete the repairs as ordered. The Landlord testified that a few weeks after the decision regarding File Number 910116410 was rendered, they were granted an Order of Possession effective April 30, 2024 (File Number 910130789). The Landlord testified that given that the Tenants were required to vacate the rental unit by April 30, 2024, they did not complete the repairs.

Landlord's Application

The Landlord is seeking a Monetary Order for unpaid rent in the amount of \$3,700.00 for the months of April and May 2024. The Landlord's application states in part:

[...] unpaid rent for April 2024 \$1850 First notice was given late on April.2, 2024
3. unpaid rent for April \$1850 tenants gave Second notice changing the April.2, 2024 to April.30,2024
4. May.2024 rent \$1850 the actions of the tenants and the forceful aggressive behaviour the landlord was not able to rent out

The Landlord testified that they initially received written notice to vacate from the Tenants on March 4, 2024, indicating that the Tenants would be vacating the rental unit on April 1, 2024. However, the Landlord testified that the Tenants gave the Landlord a second written notice to end tenancy which changed the date to April 30th. The Tenants ended up vacating the rental unit on March 27, 2024. The Landlord is seeking a Monetary Order for unpaid rent in the amount of \$1,850.00 for the month of April 2024 because the Tenant's did not provide 30 days written notice to vacate as required by the Act.

The Landlord testified that based on the aggressive behaviour of the Tenants, the Landlord was advised by law enforcement not to attend the rental unit without an escort. The Landlord further noted that the Tenants left many items at the rental unit and refused to pick them up. The Landlord testified that they had to remove all of the Tenants belonging which delayed their ability to rent out the rental unit in May. However, ultimately, the Landlord testified that it was the fear of the Tenants that caused them to be unable to re-rent the rental unit for the month of May.

The Landlord is seeking a Monetary Order in the amount of \$6,825.00 for damage to the rental unit or common areas as follows:

	Item	Amount
1.	Backyard Damage	\$950.00
2.	Broken Fence/Gate	\$450.00
3.	Damaged Back Door Lock	\$150.00
4.	Kitchen Cleaning	\$200.00
5.	Missing Cabinet	\$350.00
6.	Bathroom Cleaning	\$200.00
7.	Master Bedroom Floor Damage	\$500.00
8.	Grass Damage	\$500.00
9.	Garbage and Oil Removal	\$200.00
10.	Missing Dishwasher	\$450.00
11.	Damage Blind Livingroom	\$125.00
12.	Missing Stove	\$400.00
13.	Garbage Removal	\$1,950.00
Total:		\$6,425.00

Given the behaviour of both parties during the hearing, the Tenants were muted while the Landlord provided testimony regarding these claims. Once the Landlord was finished, the Tenants were given the opportunity to respond. I have recorded the Tenants' responses as they relate to each claim below. The Tenants did not make a response to each item although the opportunity to do so was made available to them.

Both parties submitted documentary evidence regarding these claims.

Items 1, 6, 8 – Backyard Damage, Bathroom Cleaning \$1,650.00

The Landlord testified that they are no longer seeking damage in relation to items 1, 6 and 8. The Landlord testified that the issue of the lawn resolved itself and indicated that they do not want compensation for cleaning the bathrooms as they have sought cleaning compensation elsewhere in their claim.

Item 2 - Broken Fence/Gate - \$450.00

The Landlord testified that they paid \$300.00 to repair the fence and they are seeking these damages from the Tenant. The Landlord submitted photographs of the fence prior to the tenancy and during the tenancy. The Tenants testified that they asked the Landlord to repair the fence multiple times, and the Landlord refused to do so.

Item 3 – Damaged Back Door Lock - \$150.00

The Landlord is seeking \$150.00 for a damaged back door lock. The Landlord testified that they change the back door lock at a cost of \$50.00.

Item 4 – Kitchen Cleaning - \$200.00

The Landlord testified that the Tenants did not leave the kitchen appliances clean. The Landlord testified that they paid the new Tenants \$300.00 to clean them.

Item 5 – Missing Cabinet - \$350.00

The Landlord testified that a cabinet was missing at the end of the tenancy. The Landlord testified that they have not replaced the cabinet, but they would like compensation to do so.

Item 7 – Master Bedroom Floor Damage - \$500.00

The Landlord testified that the Tenants left damage on the master bedroom floors. The Landlord testified that they cannot replace the flooring as the damage is in the center of the flooring. The Landlord testified that they believe they should be entitled to something for the flooring.

The Tenants testified that the floors were damaged when they moved in, and the only reason they look so good is because they renovated them for free.

Item 9 – Oil Removal - \$200.00

The Landlord testified that the Tenants left oil on the property. The Landlord testified that they have not removed the oil but are seeking compensation to do so. The Landlord testified that removing oil is very difficult.

The Tenants testified that these items were on the property when they moved in. The Tenant's dispute that they should have to pay for these items.

Item 10 – Dishwasher - \$450.00

The Landlord testified that their dishwasher was stolen by the Tenants. The Landlord testified that they have not replaced the dishwasher, but rather they are seeking compensation so they can do so.

The Tenants testified that they purchased the dishwasher. The Tenants stated that the Landlord purchased the connection to the dishwasher which they left at the rental property. The Tenants dispute this claim.

Item 11 – Damaged Blind - \$125.00

The Landlord testified that they are seeking compensation for a damage blind. The Landlord testified that they have not replaced the blind, but they would like to.

Item 12 – Missing Stove - \$400.00

The Landlord testified that they paid for a black stove and the Tenants sold it on marketplace and left a white one behind. The Landlord testified that they have not replaced the stove, but they would like compensation for the stove that was stolen.

The Tenants testified that the black stove was given to them and was used during their tenancy while they stored the Landlord's white stove. The Tenants testified that they returned the white stove to the rental unit at the end of the tenancy. The Tenant's dispute this claim.

Item 13 – Garbage Removal - \$1,950.00

The Landlord testified that they spent \$1,005.22 for a bin to remove the Tenant's garbage from the rental unit. The Landlord submitted a receipt to support this claim. The Landlord testified that they are not seeking the cost of labour they associated with this claim previously and indicated that they are only seeking reimbursement for the bin. The Landlord provided photographs of the items left behind at the property and noted that they have also stored many of the Tenant's items. The Landlord sought to increase their claim to include storage fees for items left by the Tenant's at the rental unit.

The Landlord is seeking a Monetary Order in the amount of \$5,000.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. The Landlord testified that they are seeking a Monetary Order in the amount of \$5,000.00 because they were assaulted by the Tenant, the Tenant blew marijuana in their face four times, because the Tenant stole their property and because of having to go through everything they have had to go through with the Tenants such as the hearing process. The Landlord testified that none of this should have had to happened and submitted that the Tenants' aggressive behaviour must be punished.

The Tenants dispute this claim. The Tenants testified that they feel taken advantage of by the Landlord. The Tenants testified that they completed renovations at the rental property for free. The Tenants testified that the Landlord refused to complete repairs.

Analysis

When two parties to a dispute provide equally possible accounts of events or circumstances related to a dispute, the party making the claim has responsibility to provide evidence over and above their testimony to prove their claim.

In this case, to be awarded compensation for a breach of the Act, the applicants must prove:

- the respondent 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 respondent did whatever was reasonable to minimize that damage or loss

Tenant's Application

Are the Tenants entitled to a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement?

Items 1-6 – Missing Items

The Tenants are seeking compensation in the amount of \$1,110.99. I have reviewed the Tenant's testimony and evidence in support of this claim, and I find it insufficient to establish that the Landlord stole these items from the rental unit on March 8, 2024, as alleged. I make this finding keeping in mind that the police attended and were live to the potential of missing items and did not pursue this matter criminally, which in my view would have been the appropriate forum for an allegation of this nature.

Moreover, I find that I cannot be satisfied that these items were in fact present on the property on March 8, 2024, nor can I be satisfied of the values associated with them. For these reasons, I decline to award the Tenant's the compensation sought. Accordingly, the Tenant's claim for compensation for alleged stolen items in the amount of \$1,110.99 is dismissed without leave to reapply.

Item 7- Disturbance of Personal Space

The Tenants are seeking a Monetary Order in the amount of \$5,500.00 because the Landlord illegally disturbed their space. I have considered the positions of the parties, and I find on a balance of probabilities that the Landlord entered the rental unit contrary to the Act on March 8, 2024, having provided less than 24 hours notice to the Tenants. The Landlord suggested that they had attached several notices to the door of the rental unit, but did not direct my attention to them in their evidence. Rather both parties submitted a copy of a letter dated March 8, 2024, which I take to be the document that was posted to the door. As this document is dated March 8, 2024, I find it unlikely that the Landlord provided 24 hours notice prior to entry as is required by section 29 of the Act. Even had the Landlord deemed the rental unit abandoned, this notice period was still required.

With that said, I find the Tenants have failed to establish that based on the Landlord's breach of the Act, they suffered a loss in the amount of \$5,500.00 and I find their claim in this amount unreasonable. The purpose of compensation under the Act is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. In this case, I find it is evident to me, that the Tenants are not seeking reparation but rather they are seeking punitive damages. For that reason, even if I were to determine a loss and that it was the result of the landlord's non-compliance, I find that the tenants have not proven the amount of or value of the damage or loss. Rather, the tenants claim is based on an arbitrary amount.

With that said, Residential Policy Guideline 16 authorizes me to award nominal damages when no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. I find on a balance of probabilities that the Landlord unlawfully entered the rental unit thus instigating an altercation that required police involvement. On that basis, I find the Tenants are entitled to nominal damages in the amount of \$300.00.

Item 8 – Repairs not completed

The Tenants are seeking \$925.00 for the Landlord's failure to complete the repairs ordered by an Arbitrator in a decision dated January 31, 2024 (File No. 910116410). The Landlord concedes that they did not complete the repairs and indicated that they chose not to comply with the order.

I have considered the positions of the parties and while I find it significant that the Landlord chose not to comply with the repair order, I have also considered timeframe of

the repairs ordered on January 31, 2024, as well as the circumstances of the tenancy at the time.

Importantly, the Arbitrator ordered that the inspection by a professional qualified inspector be complete by March 15, 2024, any required repairs based on the inspection were not required to have been completed until April 30, 2024. The parties agree that the Tenants vacated the rental unit on March 27, 2024, meaning that only 12 days elapsed between when the inspection was required to have been complete and when the Tenants vacated.

Based on this, I find it unlikely that repairs would have been completed within the 12 day period and therefore, I find the Tenant's claim in the amount of \$925.00 which is the equivalent of half a month's rent unreasonable.

With that said, Residential Policy Guideline 16 authorizes me to award nominal damages when no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. I find the Landlord knowingly failed to comply with the repair order which more likely than not caused some loss to the Tenant. Therefore, I find the Tenants are entitled to nominal damages in the amount of \$100.00.

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Based on the foregoing, I find that the Tenants are entitled to a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act, in the amount of \$400.00, as set out below.

Landlord's Application

Are the Landlords entitled to a Monetary Order for unpaid rent?

Unpaid Rent April 2024

Based on section 45(1) of the Act, a tenant may end a month-to-month tenancy by giving the landlord notice to end the tenancy effective on a date that is at least one clear calendar month before the next rent payment is due and is the day before the day of the month that rent is payable.

In other words, in this case, if the Tenants wanted to end the tenancy by March 31, 2024, the latest day the Tenants could give the Landlord written notice to end the

tenancy was February 29, 2024. Section 88 of the Act describes the manner in which documents such as a Tenant's written notice to end tenancy must be given. Section 90 of the Act discusses when a record given in accordance with section 88, unless earlier received, is deemed to have been received.

In this case, the consistent evidence of the parties is that the Tenants gave the Landlord written notice to end the tenancy by registered mail on February 26, 2024. According to section 90 of the Act, documents given by registered mail are deemed to be received on the 5th days after they are given. In this case, the earliest the Tenant's notice could be deemed received by the Landlord is March 2, 2024. On that basis, I find that the Tenants did not provide the Landlord with one clear calendar month's Notice. As a result, I find in favour of the Landlord that the Notice to End Tenancy was effective on April 30, 2024. I acknowledged the Tenants vacated the rental unit on March 27, 2024; however, given that I have found their written notice to end tenancy was effective on April 30, 2024, I find that rent was due on April 1, 2024.

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

Based on the evidence before me, I find that the Landlord has established a claim for unpaid rent owing for April 2024 in the amount of \$1,850.00.

Unpaid Rent May 2024

I have considered the Landlord's claim for unpaid rent for the month of May 2024. However, while the Landlord purports to have been unable to attend the property to ready it for new tenants based on safety concerns, I find they have provided insufficient documentary evidence to support this. The Landlord bears the responsibility of doing whatever is reasonable to minimize their loss. In this case, given the lack of evidence to support that the Landlord could not have attended the property during the month of April to do what ever was necessary to re-rent the rental unit, I find I am not satisfied that the Landlord did whatever was reasonable to minimize this loss. For this reason, I decline to grant the Landlord's claim for unpaid rent for the month of May 2024. Accordingly, the Landlord's claim for unpaid rent for the month of May 2024 is dismissed without leave to reapply.

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Therefore, I find the Landlord is entitled to a Monetary Order for unpaid rent under section 67 of the Act, in the amount of \$1,850.00, as set out below.

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

The Landlord applied for a Monetary Order in the amount of \$6,825.00 for damage to the rental unit as follows

Items 1, 6, 8 – Backyard Damage, Bathroom Cleaning, Grass Damage

As the Landlord indicated that they are no longer seeking compensation in relation to the above noted items, I have amended the Landlord's application to remove these claims as I find a reduction in the damages sought by the Landlord is of no prejudice to the Tenants.

Item 2, 3, Fence, Damaged Back Door Lock

I have considered the position of the parties, and I find that the Landlord has failed to prove on a balance of probabilities that the damage to the fence or the damage to the back door lock was caused by the actions or neglect of the Tenant and not simply wear and tear. Moreover, while the Landlord decreased their claim from \$450.00 to \$300.00 for the fence and \$150.00 to \$50.00 for the lock, the Landlord has provided no documentary evidence to support the actual value of any loss they suffered regarding these items, such as an invoice from a repair person or a receipt for supplies. For this reason, I find the Landlord has failed to provide sufficient evidence to support these claims. The Landlord is not entitled to the compensation sought regarding the fence or back door lock. Accordingly, I dismiss these claims without leave to reapply.

Item 4 – Kitchen Cleaning

Section 37(2) of the Act imposes an obligation on tenants to leave the rental unit in a reasonably clean and undamaged state at the end of a tenancy. Residential Policy Guideline 1 requires that at the end of the tenancy the tenant must clean the stove top, elements and oven, defrost and clean the refrigerator, wipe out the inside of the dishwasher.

I find the Landlord's documentary evidence which is uncontroverted by the documentary evidence of the Tenants, supports that the Tenant's did not leave the kitchen appliances reasonably clean. With that said, while the Landlord purports to have paid his new tenant's \$300.00 to complete this required cleaning, the Landlord has not provided any

evidence to support this is the case nor do I find \$200.00 which is the amount claimed by the Landlord to be a reasonable estimate of the costs associated with cleaning the appliances pictured in the Landlord's evidence.

With that said, having found there were deficiencies in the cleanliness of the kitchen appliances, I do accept that there was some neglect on the Tenants' part. Residential Policy Guideline 16 authorizes me to award nominal damages when no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. I find the Tenants were neglectful in failing to clean the kitchen appliances. For that reason, the Landlord is entitled to nominal damages in the amount of \$75.00 for cleaning.

Item 5, 7, 9, 11– Missing Cabinet, Master Bedroom Floor Damage, Garbage and Oil Removal, Damage Blind Livingroom

The Landlord conceded that they have not completed any of the repairs/replacements regarding the above noted claims and conceded that they will not be completing any repairs to the master bedroom flooring. For that reason, I find the Landlord has estimated the value of these claims and not provided an actual value of any loss they may suffer should they make the above noted repairs/replacements. I am mindful that the rental unit is currently occupied by new tenants, and I take into account the Landlord's failure in the past to complete repairs to their rental unit even after having been ordered to do so. For this reason, I find I am not satisfied that the Landlord will complete the above noted repairs/replacements and in fact suffer a loss. Based on the foregoing, I decline to grant the Landlord's claims as listed above. Accordingly, I dismiss these claims without leave to reapply.

Items 10 and 12 – Missing Dishwasher and Stove

I have considered the Landlord's claim regarding the dishwasher and stove and in the face of conflicting testimony from the Tenants, I find the Landlord has failed to meet the onus which is upon them to prove their claim. I find the Landlord has not established ownership of the items they purport to have gone missing. Furthermore, the Landlord concedes that they have not replaced these items and have thus provided an estimate as to their value. I find I cannot be satisfied that the Landlord will in fact replace these items or at what cost. For these reasons, I decline to award these claims. Accordingly, these claims are dismissed without leave to reapply.

Item 13 – Garbage Removal

As previously stated, during the hearing, the Landlord reduced their claim for garbage removal from \$1,950.00 to \$1,005.22. The Landlord submitted an invoice dated May 31, 2024, from Waste Connections of Canada Inc. to support this claim. I accept that the Tenant's left many items and a significant amount of waste at the rental property contrary to their obligation to leave the rental unit reasonably clean. I accept the Landlord's testimony that they were required to remove many of these items from the property using a large waste bin and that they did so at a cost of \$1,005.22. Based on the foregoing, I find the Landlord is entitled to a Monetary Order in the amount of \$1,005.22, as set out below.

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Based on the foregoing, I find it reasonable to grant the Landlord a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act, in the amount of \$1,080.22.

Are the Landlords entitled to compensation for damage or loss under the Act, regulation or tenancy agreement?

The Landlord is seeking a Monetary Order in the amount of \$5,000.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. The Landlord testified that they are seeking a Monetary Order in the amount of \$5,000.00 because the Tenant stole from them, assaulted them and put them through all this conflict. The Landlord testified that the Tenants aggressive behaviour needs to be punished.

I have considered the Landlord's claim, and I recognize that this tenancy significantly deteriorated over time. However, the purpose of compensation under the Act is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. I find it is evident to me, that the Landlord is not seeking reparation of a loss but rather they are seeking punitive damages or in a sense retaliation by financial means. This is not the purpose of compensation awarded under the Act, nor is this remedy available under the Act. Importantly, the Landlord took issue with an altercation that was previously dealt with in another application (910130789). The Landlord sought a remedy in response to this altercation and was granted the remedy that was available to the Arbitrator, an end to the tenancy.

Ultimately, I find the Landlord has not proven an amount or value of any loss they suffered based on the circumstances of what can only be described as a very contentious tenancy relationship. Rather, I find the Landlord's claim is based on an arbitrary amount chosen to punish or cause damage to the Tenants. Based on the foregoing, I dismiss the Landlord's application for compensation for damage or loss under the Act, regulation or tenancy agreement without leave to reapply.

Is either Landlord or Tenants entitled to recover the filing fee for this application from the other party?

As both parties were at least partially successful in their applications, I find they are both entitled to recover the \$100.00 filing fee paid for this application from the other party under section 72 of the Act. However, I find it reasonable to offset each filing fee against the other and not award the filing fee to either party for that reason. The parties' applications for authorization to recover the filing fee for these applications from one another under section 72 of the Act are dismissed without leave to reapply.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$2,503.22** under the following terms:

Monetary Issue	Granted Amount
Landlord's Monetary Order for Unpaid rent under section 67 of the Act	\$1,850.00
Landlord's Monetary Order for damage to the rental unit or common areas pursuant to sections 32 and 67 of the Act	\$1,080.22.
Tenant's Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act	\$-400.00
Total Amount	\$2,503.22

The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** should they fail to pay the above noted funds to the Landlord within seven (7) days of receipt of this decision. Should the Tenants fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court) if equal to or less than \$35,000.00. Monetary Orders that are more than \$35,000.00 must be filed and enforced in the Supreme Court of British Columbia.

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: January 21, 2024

Residential Tenancy Branch