



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, OPC, OPR, MND, MNR, MNSD, MNDC, FF, O

Introduction

This hearing dealt with a landlord's monetary claims for unpaid rent and utilities; damage to the rental unit; damage or loss under the Act, regulations or tenancy agreement; and, authorization to retain the tenants' security deposit. The landlord and three of the five named respondents appeared at the hearing. The parties were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

The landlord had named five respondents in filing his Application. Three of the respondents appeared at the originally scheduled hearing and confirmed receipt of the landlord's hearing packages; however, two of the named respondents did not appear.

Where a respondent does not appear at a hearing, the applicant must be prepared to prove service. Failure to prove service upon a respondent may result in the matter being dismissed, with or without leave, entirely or against the respondent not sufficiently served.

Proof of service by registered mail should include the original receipt given by the post office and should include the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the tenant's forwarding address. Registered mail includes any service offered by Canada Post for which a signature upon delivery can be obtained. As such, Xpresspost that is accompanied by a signature upon delivery is acceptable.

The landlord testified that he sent hearing packages to the two respondents who were not in attendance by way Xpresspost as the packages were too large to send by registered mail. The landlord explained that none of the respondents have provided him with a forwarding address so he used the respondents' parents' addresses that were provided to him on the tenancy application. One of the packages was not successfully delivered and the other package was delivered but it was unknown as to who signed for the package. The landlord acknowledged that he had not confirmed that the service addresses he used for these two respondents were the addresses at which the respondents were residing at the time of mailing the hearing packages. I informed the landlord that I was not satisfied that the two respondents who were not in attendance had been served in a manner that complies with the Act. The landlord indicated that he wished to proceed against the three respondents that were in attendance. The hearing proceeded against the three respondents in attendance and the landlord's Application was amended to exclude the other two respondents.

Although the landlord indicated he was seeking an Order of Possession for a multitude of reasons in filing his Application, at the time of filing the tenants had already vacated the rental unit and the landlord had regained possession of the rental unit. As such, the landlord's request for an Order of Possession was not appropriate and I amended his application accordingly.

This hearing was held over three dates, due in part to the lengthy list of claims by the landlord but also because of time constraints on part of the tenants. After each adjournment, the Residential Tenancy Branch mailed Notices of Adjourned Hearing to each party at the service addresses provided and confirmed by the parties. It should also be noted that at the start of the April 18, 2015 hearing tenant DS requested the hearing be adjourned. DS explained that he had just received the Notice of Adjourned Hearing the night before and had a final exam to write in two hours. The other tenants; however, wished to proceed. The hearing continued for one hour, during which time only the landlord's submissions were heard. At the end of that one hour all parties consented to an adjournment.

The landlord attempted to amend his Application to include claims for costs related to preparing his evidence; mailing the hearing packages and his time to do so; and, recovery of the filing fee. I noted the landlord had already requested recovery of the filing fee in filing his originally filed Application and I will consider awarding him recovery of that cost in this decision. However, the other costs and time the landlord sought to add to his claims were not considered for the following reasons: the landlord did not amend his application in accordance with the Rules of Procedure; and, in any event the costs to serve an Application and to prepare for and participate in a dispute resolution proceeding are not recoverable under the Act except for the filing fee which is recoverable under section 72 of the Act. Therefore, the remainder of this decision deals with the landlord's monetary claims, as filed, and recovery of the filing fee.

Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation for the amounts claimed?
2. Is the landlord authorized to retain the tenants' security deposit?

Background and Evidence

Four co-tenants entered into a one year fixed term tenancy that commenced September 1, 2011 and was set to expire August 31, 2012. The landlord collected a security deposit of \$1,400.00. The landlord did not invite the tenants to participate in a move-in inspection before the tenants moved in. Rather, the landlord took pictures of the property on September 1, 2011 and prepared a list of known deficiencies. The landlord presented the list to the tenants for their signature on September 18, 2011. The tenants signed the document indicating they agreed with the landlord's list of deficiencies at the start of the tenancy. On October 3, 2011 a fifth co-tenant was added to the tenancy agreement.

The tenants were required to pay rent of \$2,800.00 on the last day of the preceding month. Rent did not include water, electricity or heat but the tenants were provided with "some furniture" according to the tenancy agreement. The rental unit is a house with three bedrooms upstairs, two bedrooms downstairs, three bathrooms, and there is a living area and kitchen on each floor. The tenants were university students and in the spring of 2012 some of the co-tenants sub-let their bedrooms to others.

The tenancy ended pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities that the landlord posted on the doors of the rental unit on August 2, 2012. The 10 Day Notice has a stated effective date of August 12, 2012 and indicates rent of \$2,240.00 was outstanding as of August 1, 2012 and utilities of \$1,005.99 that were demanded on June 30, 2012. The rent and utilities were not paid and on August 13, 2012 the landlord attended the property and found that it had been vacated or abandoned.

The landlord did not prepare a move-out inspection report but took several photographs of the property after the tenants vacated.

Unpaid Rent

The landlord seeks to recover unpaid rent of \$2,240.00, as corrected, during the hearing. The landlord testified that for the months of May 2012 through August 2012 there was a rent shortfall of \$560.00 each month. The landlord explained that each of the tenants had been paying him one-fifth of the monthly rent, or \$560.00, each month and then starting in May 2012 rent from one of the co-tenants was not provided and the other co-tenants did not make up the shortfall in rent.

The tenants did not deny that there was a rent shortfall but one of the tenants asked for proof of unpaid rent. The landlord pointed to emails he had sent to the tenants with respect to the unpaid portion of the rent. One of the emails is dated May 16, 2012 and appears to have been sent to all of the co-tenants and sub-tenants. The second email is dated July 6, 2012 and appears to have been sent to all of the tenants and sub-tenants. During the hearing, the tenants did not deny receiving the emails and acknowledged that they may have even had a discussion about it.

Unpaid Utilities

The landlord seeks to recover hydro, water, sewer and garbage bills from the tenants from January 2012 through to August 12, 2012 in the sum of \$1,100.32.

The tenants did not dispute that they owe the landlord for the utilities as claimed.

Damage and Cleaning

The landlord had provided an extensive list of receipts for amounts he was claiming for damage and cleaning. For ease of reference, I have grouped the related receipts together and summarized the parties' respective positions with respect to each item.

Item	Amount claimed	Landlord's reasons	Tenants' responses
Fire extinguishers	\$27.99 + \$30.22	The tenants were provided with two fire extinguishers at the start of their tenancy. At the end of tenancy, one had been discharged and one was broken.	The tenants acknowledge using one fire extinguisher to put out a grease fire in the oven. The tenants were not aware of what happened to the other fire extinguisher.

Garbage dump	\$9.75 + \$28.25 + \$28.25 + \$20.75 + \$20.75 for dump fees. Plus, \$800.00 for landlord's labour.	The tenants left abandoned possessions and garbage at the property at the end of the tenancy. Also, the furniture provided by the landlord for the tenants use had to be thrown away. The landlord testified that the tenants were provided a rocking chair and 2 couches upstairs and a chair and a couch downstairs. Some dishes and cook ware was also provided to the tenants. The landlord's labour is calculated as 20 hours at \$40.00 per hour.	The tenants acknowledged some personal possessions may have been abandoned at the property but are of the position that the landlord's claim for compensation is excessive especially considering the claim includes dumping of his old furniture. The tenants suggest a reasonable claim would be for one truck load and one hour of time.
Repair kitchen cupboard	\$6.25 + \$40.00 for "balance" of landlord's labour	The landlord submitted that the tenants bent the kitchen cupboard door too far back, causing the hinge to come out. The landlord submitted that the tenant had paid him some money toward the repair but not the entire cost. The landlord acknowledged he received cash from the tenant and he did not issue a receipt.	Tenant TT admitted responsibility for the broken cabinet door but submitted that he gave the landlord \$80.00 – \$100.00 in cash to fix it at the time and that was for the entire cost to make the repair. The tenant is of the position no more compensation is owed to the landlord for this item.
Mail wallet to tenant's guest	\$11.67	The landlord found a wallet in one of the tenant's bedrooms and mailed it to the owner. This claim was dismissed as it is not related to the tenancy agreement or Act.	No response required.
Computer stick to record damage	\$22.39	This claim was dismissed as costs incurred to accumulate evidence are not recoverable under the Act.	No response required.
Refill propane tank on BBQ	\$20.97	The tenants were provided a BBQ complete with a full propane bottle at start of tenancy and the propane was empty at the end of the tenancy. Claiming the cost to re-fill the propane tank.	The tenants appearing before me state they did not use the BBQ and were unaware if others did but acknowledged it was possible during the last months of tenancy.
Cleaning supplies, light bulbs, oven cleaner and	\$35.35 + \$10.58 + \$12.97 + \$9.48 + \$10.05	The landlord anticipated that the tenants would leave the rental unit unclean so he	The tenants questioned the landlord's purchase of cleaning supplies before the

weather-stripping		purchased cleaning supplies when they were on sale, near the end of the tenancy. The cleaning company did not supply oven cleaner so he provided it to them. There were 18 burnt out light bulbs needed replacement. The weather stripping had been rubbed off although it was quite old.	tenancy was over and questioned whether the supplies were used at the rental unit since the landlord had claimed for a cleaning service.
Carpet cleaning	\$201.60	The landlord cleaned the carpets in the house. Afterward, the landlord decided to replace the carpeting in the house except the bedrooms. The landlord's original evidence package did not include a copy of the receipt; however, it was provided during the period of adjournment and it supported the cost that was claimed.	The tenants acknowledge that the carpeting required cleaning in some rooms including the living areas. The tenants were agreeable to paying for carpet cleaning if the amount claimed was reasonable.
Drywall Repair and repainting	\$47.42 + \$169.80 + \$36.50 + \$56.21 + \$70.05 + \$73.00 + \$16.33 + \$5.15 + \$53.85 + \$41.88 + \$39.01 + \$5.45 + \$44.36 for supplies. Plus, \$400.00 for landlord's labour to repair drywall. Plus, \$400.00 for landlord's labour to repaint.	The landlord submitted that drywall damage included three larger holes and multiple small holes. The tenants had hung posters and stapled several beer cases to the walls. Seven walls required repainting after the drywall was repaired. The landlord stated that he last painted the rental unit approximately five years prior. The landlord is claiming 10 hours to repair drywall and 10 hours to repaint at \$40.00 per hour in labour.	The tenants acknowledged that there were numerous small holes in the walls but the tenancy agreement required them to use thumb tacks and the size of staples would be no larger. The tenants also stated that there were holes in the walls when they moved in from previous tenants hanging artwork. The tenants were of the position that the landlord's claim for drywall repair and re-painting was excessive.
Change exterior door locks and new keys	\$34.38	The landlord changed the locks to the exterior doors and acquired six new keys because the tenants did not leave on good terms and the landlord did this to protect the incoming tenants.	The tenants were of the position they were no threat to incoming tenants and questioned whether this was a cost landlord's usually bear.

Replace carpeting	\$2,792.16	After cleaning the carpets the landlord determined the carpeting was in bad shape and replaced all of it except for three bedrooms. The landlord submitted that the amount claimed does not include the downstairs carpeting as it was very old and had pre-existing issues. Rather, the landlord was claiming for the carpeting in the upper living area, hallway and stairs. The upstairs carpeting was 18 years old but the landlord submitted that it was top quality because in the past it has always come back after cleaning. The landlord stated that he replaced the carpeting with lesser quality carpeting.	The tenants submitted that the carpeting on the upper floor was old and beyond the average useful life of carpeting. The tenants pointed to the landlord's move-in list of deficiencies where carpet damage is noted on the upper floor. The tenants also questioned whether the carpeting was "top quality" as described by the landlord in the absence of any proof.
Interior door repairs	\$13.07 + \$3.32 + \$11.59 + \$5.92 + \$12.34 + \$178.96 + \$42.15 for supplies and materials. Plus, \$402.20 for estimated cost to install upper bedroom door. Plus, \$200.00 for 5 hours of landlord's time to locate, pick up and stain upper bedroom door. Plus, \$40.00 for landlord's labour to repair lower door jamb	The landlord submitted the upper bedroom door had been kicked in. The 1970's era door was hollow core with a mahogany veneer which is no longer readily available in stores and had to be custom ordered. The landlord obtained a quote from a company to install the door for \$402.20 but the landlord thought the quote was outrageous so he did it himself; however, the landlord seeks to be compensated the same amount that the company quoted him. The landlord estimated that he spent 6 – 8 of his time on the replacement of upper bedroom door. The lower door jamb was split which the landlord fixed in one hour.	DS acknowledged that his bedroom door essentially crumbled when he asked a larger friend of his to try to muscle the door open after he locked himself out of the bedroom. DS explained that he forgot his bedroom door key at work and purses belonging to friends of his had been locked in the bedroom. DS was of the position the landlord's claim is excessive and was agreeable to compensating the landlord for the cost of the new door. The tenants did not dispute that the lower bedroom door jamb was cracked.
Bathroom sink drain	\$23.28	The landlord submitted that the	The tenants submitted they

		pipe below the sink had rusted through and was leaking during the tenancy.	are not responsible for replacing an old plumbing pipe that rusted through.
Toilet seat replacement	\$39.18	The landlord submitted that two toilet seats had to be replaced as they were too dirty to be cleaned. Toilet seats were approximately one year old.	One of the tenants living in a lower bedroom had purchased his own padded toilet seat and did not use the toilet seat provided by landlord. The tenants questioned how a toilet seat can be so dirty it needs replacement.
Plywood under kitchen sink	\$19.26	The kitchen sink plumbing was leaking and because the tenants did not notify him in a timely manner the plywood under the sink rotted.	The tenants were agreeable to paying for the new plywood.
Replace interior door keys	\$28.45	Two sets of keys were provided for each bedroom door. The landlord found some keys scattered about in different places at the end of the tenancy but not all keys were returned. The landlord had six new keys made.	The tenants acknowledged that the keys were left in various places, including dresser drawers, but were uncertain if all keys were found.
Keys	\$36.93	More keys were cut for the property.	The tenants were uncertain if all keys were returned to the landlord.
Main bath faucet replacement	\$21.58	The "button" on the single lever faucet that indicates hot and cold was missing at the end of the tenancy. The faucet was most likely original to the house 35 years ago or at least 15 years old. Replacement of the button was necessary for aesthetic reasons.	Given the age of the faucet this claim was dismissed summarily and a response was not requested of the tenants.
Cleaning service	\$405.00	The landlord hired a cleaning service to clean the three bathrooms and two kitchens. The cleaning invoice indicates 13 hours at \$35.00/hr for "cleaning".	The tenants were of the position that 35 hours appears high for cleaning the kitchens and bathrooms, especially considering the downstairs kitchen was not used and the landlord charged them for cleaning supplies.
Total claim for	\$7,116.03		

damage and cleaning			
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In support of his claims, the landlord provided copies of receipts, invoices and an estimate as well as numerous photographs of the property taken after the tenants vacated.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

The burden of proof is based on the balance of probabilities. It is important to note that where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Unpaid rent

Under the Act, a tenant is required to pay rent when due even if the landlord has violated the Act, regulations or tenancy agreement, unless the tenant has a legal right to withhold rent in certain circumstances as provided under the Act.

Co-tenants are jointly and severally liable to fulfill the obligations of the tenancy agreement and the Act. Where there is a co-tenancy, it is the responsibility of the tenants to ensure the landlord receives all of the rent payable under the tenancy agreement. Thus, if one co-tenant fails to pay a portion of the rent the other co-tenants are responsible for paying the shortfall and if they fail to do so the landlord may pursue any or all of the co-tenants for the unpaid rent. It then remains among the co-tenants to apportion any liability among themselves and pursue the other co-tenants in the appropriate forum.

In this case, the tenants had a fixed term tenancy until the end of August 2012 and were required to pay rent of \$2,800.00 for each of those months. The landlord asserted that there was a shortfall in rent in the amount of \$560.00 for the months of May 2012 through August 2012 as one of the co-tenants stopped paying their share of the rent. The tenants did not provide any evidence to demonstrate that they made up for the shortfall. Further, I find the landlord's submissions sufficiently supported by his documentary evidence including copies of the two emails sent to the tenants and sub-tenants on two occasions and the 10 Day Notice to End Tenancy for Unpaid Rent dated August 2, 2012. Therefore, I award the landlord unpaid rent of \$2,240.00

Unpaid Utilities

The tenancy agreement clearly indicates that utilities are not included in the monthly rent. The utility accounts were in the landlord's name for this tenancy meaning the landlord is entitled to recover the cost of utilities incurred during the tenancy from the tenants.

The landlord's claims to recover the utility bills that were unpaid during the tenancy were not in dispute by the tenants and were supported by copies of utility bills. Therefore, I award the landlord's request to recover unpaid utilities in the amount claimed of \$1,100.32.

Damage and cleaning claim

It is important to note that awards for damages are intended to be restorative. Accordingly, where an item has a limited useful life, it is appropriate to reduce the replacement cost by the depreciation of the original item. In order to estimate depreciation of the replaced item, where necessary, I have referred to normal useful life of the item as provided in Residential Tenancy Policy Guideline 40: *Useful Life of Building Elements*.

Fire extinguishers

The tenants acknowledged discharging one of the fire extinguishers to put out a grease fire during the tenancy. I find that the tenants' actions or lack of cleaning are the most likely cause for the grease fire. Thus, I find they are obligated to replace the discharged fire extinguisher.

Fire extinguishers have a limited useful life and are subject to expire. I find the landlord's testimony that the second fire extinguisher was "broken" in the absence of any other evidence did not satisfy me that the tenants damaged the second fire extinguisher.

In light of the above, I grant the landlord's request to recover the cost of one of the new fire extinguishers or \$27.99.

Garbage removal

The landlord's photographs show abandoned property and garbage in the rental unit, in the yard of the residential property; and there were photographs of truckloads of items presumably taken to the dump. Some of the photographs show truckloads of recyclables such as cardboard and empty bottles, although one such photograph was taken "mid-tenancy". Other photographs show the trucks loaded with furniture that had been included in the rental unit. There were also photographs of black garbage bags which had unknown materials, and shrubbery in the back of a pick-up truck.

Upon review of the photographs, I have no doubt that the landlord had to remove garbage and abandoned property left by the tenants. The Act requires that tenants leave a rental unit vacant at the end of the tenancy; thus, I find that leaving abandoned property and garbage behind is a violation of the Act and the tenants are responsible for the cost of disposal. However, I am not satisfied that the tenants are obligated to compensate the landlord for all of the garbage removal costs considering: 1) much of the furniture that was taken to the dump was very old and outdated as evident by the style and characteristics of the furniture and I find it likely that the furniture destined for the dump in any event; 2) the landlord did not establish a basis for holding the tenant's responsible for hauling shrubbery away; and, 3) removal of

recyclables done “mid-tenancy” were not supported by evidence that the landlord had requested the tenants remove these items or that they would be charged for it if he took it upon himself to do that. Therefore, I find a more reasonable and appropriate award to the landlord is one-third of the amounts he is claiming or \$302.58.

Kitchen cabinet repair

It was undisputed that tenant TT broke the kitchen cabinet door and the tenant paid the landlord some money, in cash, for making the repair. The parties provided disputed testimony as to the amount paid by the tenant. Since the landlord did not issue a receipt for the cash payment I find the landlord did not meet his burden to demonstrate that the tenant failed to pay all of the cost of the repair. Therefore, I dismiss this portion of the landlord's claim.

Mail wallet to tenant's guest

In order to succeed in establishing an entitlement to an award, the claimant must show that the other party violated the Act, regulations or tenancy agreement. The landlord did not establish that a wallet in the tenant's bedroom was a violation of the Act, regulations or tenancy agreement. While the landlord was courteous to the person who lost their wallet, I find there is no basis for the tenants to compensate the landlord for his actions under the Act, regulations or tenancy agreement. Therefore, this portion of the landlord's claim was dismissed during the hearing.

Computer stick to record damage

Costs associated to conducting business as a landlord, including those incurred to prepare for or participate in a dispute resolution proceeding are not recoverable under the Act, except for the filing fee. Thus, costs to document or photograph or store such evidence digitally are not recoverable under the Act and I dismiss this portion of the landlord's claim.

Refill propane tank

The landlord's receipt is dated in the month of July 2012 yet the tenancy was still in effect at that time. The tenants had until the end of the tenancy to replace any propane they used. I find the landlord did not provide a reasonable explanation as to why he would have refilled the propane before the end of the tenancy. Further, propane refills can be obtained at a lesser cost as various retailers and by taking this upon himself before the end of the tenancy, the landlord deprived the tenants of doing so and at a lower rate. Therefore, I do not hold the tenants responsible for compensating the landlord for his actions and I dismiss this portion of the landlord's claim.

Cleaning supplies, light bulbs, oven cleaner and weather-stripping

The landlord's purchases of cleaning supplies and light bulbs were made in July 2012, before the tenancy ended. It is very evident from the photographs that the rental unit was left very dirty and given the landlord had inspected the unit in May 2012 and observed the unit in a less than clean condition, I find the landlord provided a reasonable explanation that he anticipated the need for cleaning supplies.

I find, however, the landlord did not provide an explanation as to when and how he determined the rental unit was in need of replacement light bulbs since he purchased the light bulbs before the tenancy had ended. Nor, did I see other evidence to document the alleged 18 burnt out light bulbs.

The landlord purchased an oven protector and oven cleaner that he seeks to recover from the tenants. From the photographs of the oven at the end of the tenancy, I find the oven was left in a very filthy condition and I award these costs to the landlord.

With respect to the weather-stripping, the landlord acknowledged that it was fairly old and I find that weather-stripping is an item that is subject to deterioration with age and use.

In light of the above, I award the landlord the cost of cleaning supplies, the oven protector and oven cleaner but I deny the claim for light bulbs and weather-stripping. Therefore, I award the landlord \$3.00 + \$4.99 + \$2.99 + \$6.49 + \$2.99 plus tax for a total of \$22.91.

Carpet cleaning

Under the Act, a tenant is required to leave a rental unit reasonably clean. Residential Tenancy Policy Guideline 1 provides that steam cleaning of carpets is generally required if the tenancy is longer than one year. However, upon review of the photographs of the carpeting taken at the end of the tenancy, I am satisfied the carpets were very dirty and stained at the end of the tenancy and that carpet cleaning was necessary even though this tenancy was less than one year in duration. I am also of the view that the claim is for a reasonable amount and I award the landlord \$201.60 for carpet cleaning as requested.

Drywall repair and repainting

The Act provides that a tenant is responsible for repairing damage that they, or persons they permit on the property, cause either by their actions or neglect. Residential Tenancy Branch Policy Guideline 1 provides that landlords should expect some holes in drywall from the tenant hanging artwork but that an excessive number of holes or large holes may be considered damage.

The landlord's evidence included photographs show three rather large holes in the drywall. I note; however, that the move-in list of deficiencies prepared by the landlord describes a hole/dent in the feature wall in the dining room and to the right of the fireplace and the wall adjacent to the stairs. The move-in list of deficiencies also indicates there were several nail holes in the bedroom #2 and a dent in the downstairs kitchen as well as drywall tape that was coming apart in the main bathroom. From the landlord's unlabeled photographs and in the absence of a move-out inspection report, I am unable to determine the location of the large holes he seeks to hold the tenants responsible for and whether those were pre-existing.

The landlord also included photographs of several beer cases stapled to the walls that the tenants acknowledged were hung during their tenancy. I am of the view that the staples and several beer cases would have left an excessive number of holes in the drywall for which the tenants are responsible to repair.

The landlord testified that he repainted seven walls after making the drywall repairs and I accept that multiple coats are required where the drywall has been patched. However, the landlord had last painted

five years prior and interior paint has a useful life of only four years according to Residential Tenancy Policy Guideline 40.

Considering all of the above, I find the landlord has not established an entitlement to recover all of the costs associated to drywall patching and repainting, although I accept that the tenants are obligated to pay for some of the drywall damage and repainting. Therefore, I find it appropriate to estimate a reasonable award of 25% to take into account pre-existing damage and the age of the interior paint and I award the landlord \$364.75 calculated as 25% of the sum of the amounts claimed (\$1,459.01).

Replace exterior door locks and keys

The landlord stated that he changed the exterior door locks because he wanted to ensure the protection of his new tenants. While this may be a good practice between tenancies many landlords replace locks or re-key locks as a cost of doing business as a landlord. The Act even provides that a new tenant may ask a landlord to change the locks and in such cases the landlord will have to do so. I find the landlord did not establish that the tenants' actions were such that the tenants were a threat to the new tenants or the property after they vacated. Therefore, I find the landlord did not demonstrate an entitlement to recover the cost of new exterior door locks and keys from the tenants and I dismiss this portion of the landlord's claim.

Carpet replacement

The landlord claims to have replaced the upstairs carpeting and seeks to hold the tenants responsible for this cost. I find the landlord's request to recover the replacement cost is unreasonable and unsupported considering: 1) the carpeting was 18 years old and residential Tenancy Policy Guideline 40 provides that carpeting has an average useful life of 10 years; 2) the landlord only provided photographs of the carpets before they were cleaned and did not take photographs of their condition after they were professionally cleaned; and, 3) the carpet cleaning invoice makes no mention of the condition of the carpets after they were cleaned. Therefore, I find the landlord's claim for replacement cost of carpeting is unfounded and I deny this portion of the landlord's claim.

Interior door repairs

The tenant DS acknowledged that his actions lead to damaging the upper bedroom door and I find the tenant is obligated to compensate the landlord for the damage. The issue in this case is the amount claimed by the landlord as the tenant is of the position that the landlord's claim for approximately \$800.00 for a 35 year old hollow-core interior door is excessive. I share the view of the tenant considering Residential Tenancy Guideline 40 provides that interior doors typically have a useful life of 20 years. Further, the landlord's own testimony was that the quote he obtained to install the door was outrageous. Since he did not employ that company to install the door because of the outrageous cost I find it odd that he would seek the tenant to compensate him for an outrageous quote. Therefore, I find the tenant's offer to pay for the cost of the new door of \$178.96 to be the most reasonable solution and I award the landlord that amount.

Based upon the landlord's undisputed claim that the bedroom in the lower level had a cracked door jamb, the photograph of a cracked door jamb; and, considering the move-in inspection report does not reflect damage to the lower bedroom door jambs, I accept the landlord's evidence that damage to the door jamb occurred during the tenancy. Therefore, I award the landlord the cost to repair the door jamb which I

calculated to be \$3.32 for shims + \$11.59 for new wood for the door jamb + \$40.00 for the landlord's labour for a total award of \$54.91.

Bathroom sink drain repair

The Act requires landlords to repair and maintain a property. Tenants are responsible for repairs if their actions or negligence results in damage. The Act provides that wear and tear is not damage. Therefore, repairs that are necessary due to wear and tear over several years of use are the obligation of the landlord, not the tenant. Having heard the bathroom sink drain pipe leaked because it rusted through, I find this repair is an obligation of the landlord since it appears to have occurred over many years of use. Therefore, I do not hold the tenants responsible for compensating the landlord for this repair and I dismiss this portion of the landlord's claim.

Toilet seat replacement

The landlord submitted that the toilet seats were too dirty to clean and required replacement. In all of the landlord's photographs taken after the tenants vacated the rental unit I could see only one toilet seat. It was purple in colour and given this colour is more in keeping with plumbing fixtures of the 1970's I doubt that it was only one year old. Thus, I find it likely that the landlord did not submit a photograph of the toilet seats that were allegedly too dirty to clean. Accordingly, I find the landlord did not satisfy me that the tenants are responsible for the cost to replace the toilet seats and I dismiss this portion of the landlord's claim.

Plywood under kitchen sink

The landlord submitted that the plywood rotted under the kitchen sink because the tenants did not report that the kitchen sink was leaking. Since the tenants did not dispute this claim, I award the landlord \$19.26 as requested.

Replace interior door keys

Under the Act, a tenant is required to return all keys or means of access to the rental unit to the landlord at the end of the tenancy. The landlord submitted that some of the keys for the interior doors were found at the property but not all. The tenants acknowledged that keys were scattered around the property and the tenants could not confirm that all of the keys provided to them were returned to the landlord. Therefore, I grant the landlord's request to recover \$28.45 for cutting of more keys for the interior doors as requested.

Keys

I found this claim for more keys to be less clear than the landlord's other claims for new keys. The landlord had submitted a receipt to replace the exterior door locks and six keys were purchased on August 16, 2012. On August 9, 2012 the landlord had six keys cut for which he described as being for the interior bedroom doors. Whereas, the copy of receipt for keys made in October 2012 was covered by the debit receipt and I cannot see the detailed receipt that lies beneath it. Since the landlord has previously claimed the replacement of the exterior door keys and the interior bedroom keys, I find this claim not sufficiently supported. Given the landlord has the burden to prove an entitlement to the

amounts he is claiming against the tenants, I find the burden has not been met for this item and it is dismissed.

Main bath faucet handle

The Residential Tenancy Policy Guideline 40 provides that plumbing fixtures have an average useful life of 15 years. The landlord acknowledged that the faucet in the main bathroom was at least 15 years old and may have been as old as 35 years. Therefore, I find I am unsatisfied that the Hot/Cold button falling off was due to damage caused by the tenants as opposed to wear and tear or the aging process and I dismiss this claim.

Cleaning service

The Act requires that a tenant leave a rental unit "reasonably clean" at the end of the tenancy. Upon review of the landlord's photographs, I find the tenants left the kitchens nothing short of disgusting when the tenancy ended. I also reject the tenants' submission that the downstairs kitchen had not been used as it is clear that it had been used by the tenants, the sub-tenants or their guests at some point before the end of the tenancy as there were items on the downstairs kitchen counter and the downstairs fridge was dirty. Based upon the evidence before me, I find the cost of the cleaning service to be reasonable in the circumstances and I grant the landlord's request to recover \$405.00 from the tenants for the cleaning service.

Filing fee, security deposit and Monetary Order

Since the landlord was partially successful in his claims against the tenants, I award the landlord recovery of one-half of the filing fee he paid for this Application or \$50.00.

I authorize the landlord to retain the tenants' security deposit in partial satisfaction of the amounts awarded to the landlord.

I provide the landlord with a Monetary Order calculated as follows:

Unpaid Rent		\$ 2,240.00
Unpaid Utilities		1,100.32
Damage and cleaning:		
	Fire-extinguisher	\$ 27.99
	Garbage removal	302.58
	Cleaning supplies	22.91

	Carpet cleaning	201.60	
	Drywall repair	364.75	
	Door repair (upper)	178.96	
	Door jamb repair (lower)	54.91	
	Plywood -- kitchen sink	19.26	
	Interior door keys	28.45	
	Cleaning service	<u>405.00</u>	1,606.41
Filing fee			50.00
Less: security deposit			<u>- 1,400.00</u>
Monetary Order			\$ 3,596.73

To enforce the Monetary Order it must be served upon the tenants and it may be filed in Provincial Court (Small Claims) to enforce as an order of the court.

Conclusion

The landlord has been authorized to retain the tenants' security deposit and the landlord has been provided a Monetary Order for the balance of \$3,596.73 to serve and enforce as necessary.

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: June 23, 2015

Residential Tenancy Branch

