



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, LRE, OPT, LAT, RR, FF

Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order to suspend or set conditions on the landlord's right to enter the rental unit; for an Order of Possession for the tenant; for an Order to allow the tenants to change the locks to the rental unit; for an Order for to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee from the landlords for the cost of this application.

The tenants, the landlord, an agent for the landlord (TJ) and legal counsel (Counsel) for the landlord attended the conference call hearing. The hearing was adjourned as additional time was required to hear evidence from the parties. By the end of the reconvened hearing today both parties were given the opportunity to be heard, to present evidence and to make submissions. The tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord and her agent confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

- Are the tenants entitled to an Order to suspend or set conditions on the landlord's right to enter the rental unit?
- Are the tenants entitled to an Order of Possession?
- Are the tenants entitled to an Order to allow access to the rental unit for the tenant or the tenants' guests?
- Are the tenants entitled to an Order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

The parties agreed that this tenancy started on November 23, 2015 for a fixed term tenancy which ends on November 30, 2016 with the option of continuing on a month to month basis. Rent for this unit is \$1,400.00 per month due on the 1st of each month. The tenants paid a security deposit of \$700.00 and a pet deposit of \$700.00 on November 18, 2015. A previous hearing had taken place between these parties on July 05, 2016. The file number is shown on the front page of this decision.

The tenants' submissions

The tenants testified that they rented this unit from the landlord and originally the landlord had said the rent would be \$1,200.00. When the tenants came to rent the unit the landlord had raised the rent to \$1,400.00 but said if the tenants pay that amount they can rent the garage level bedroom out when the landlord is not there. This was also written as a clause in the tenancy agreement which says "if another occupant is authorised by the landlord that occupant shall be permitted use and access to the garage level bedroom and bathroom". On April 24, 2016 the landlord came to the unit and told the tenants that they could no longer rent this garage level bedroom out and that she wanted the room back and she would compensate the tenants \$200.00 a month from May to September. The landlord's agent also said that he would put this agreement in writing but he never did this. The tenants seek to recover five months' rent at \$200.00 per month to a total amount of \$1,000.00.

The tenant testified that the occupant they had rented the garage level bedroom to moved out and they had arranged for a new occupant to move into that room on May 01, 2016. When they were told in April that this was no longer an option the landlord only gave the tenants a week's

notice. They had discussed the new occupant with the TJ. Verbal permission had been given for the tenants to continue to rent out this room; however, as this occupant was prevented from renting that room she had nowhere to live so TJ and the landlord gave verbal permission for her to rent a room in the tenants' unit until she could find a new place. This occupant stayed in the tenants' unit until August 01, 2016.

The landlord charged the tenants an occupancy fee although they had verbally agreed it would not be applied. Then 25 days later the landlord used this as a way to try to evict the tenants and issued them with a 10 Day Notice to End Tenancy for unpaid rent. The 10 Day Notice was overturned at a hearing in July. The tenants did pay an additional fee to the landlord of \$200.00 a month for May, June and July.

The tenants agreed that the tenancy agreement states that they will be charged \$200.00 a month for additional occupants but as the landlord refused to allow the tenants to rent the garage level bedroom to this occupant the tenants argue that they should not have to pay that fee. The occupant did not pay rent to the tenants and just contributed towards bills and food until she found a new place. The tenants referred to a text message conversation between the tenant RB and the landlord's agent TJ. RB had asked TJ if the landlord would compensate the tenants \$200.00 a month from May to September. TJ's response was that the landlord had instructed TJ that such payments will come from her directly. The tenants seek to recover the amount paid for this occupant of \$600.00 from the landlord.

The tenants testified that they lost the rental income they were getting from renting the garage level bedroom each month when the landlord prevented the tenants from renting it from May 01, 2016 to August, 2016. The tenants testified that they have lost rent of \$450.00 a month. The tenants seek to recover \$1,800.00 from the landlord.

The tenants testified that when the landlord arrived at the end of April, 2016, she locked the tenants out of the laundry room and from accessing the breaker panel in the basement level of the house. The tenants had to take their washing to a laundromat and incurred additional costs to do their laundry. The tenants testified that the landlord did put a washer and dryer upstairs in their unit but it was not installed properly, it leaked badly; it is a fire hazard; and it has not been installed in accordance to building codes. Due to this the tenants have been unable to use these

facilities. The work to install the washer dryer started on May 08, 2016 and despite a building inspection report stating the washer and dryer were in noncompliance with building regulations the landlord has still not rectified this issue to bring it up to code. The tenants seek to recover 10 weeks use of the laundromat at \$21.00 a week, plus \$5.00 a week for gas to go to and from the laundromat plus \$10.00 an hour for two hours a week for 10 weeks the tenants have had to do their washing at the laundromat to a total amount of \$460.00.

The tenants testified that while the landlord was staying in her suite the tenants' utility bills increased. The tenants seek to recover \$24.28 for the increase in Hydro and referred to one hydro bill provided in evidence for the period of hydro used between January and May, 2016. The tenants testified that there was a slight peak in usage in May. The tenants testified that they are responsible for the utilities bills for the entire house even when no one is living in the landlord's suite. The tenants still have to pay to heat this unused area. At the start of the tenancy the landlord agreed to contribute 25 percent of the utilities. The landlord has not done so for this last hydro bill.

The tenants testified that when the landlord came to the house she entered the tenants' unit without permission or proper notice. The tenants testified that this violated their right to quiet enjoyment of their rental unit. The landlord entered without notice on April 24, 2016 and then over the course of her stay in April and May. On some occasions the landlord did provide a notice to enter but other times she just walked in through the connecting door that the landlord installed between the upstairs and the garage level. The landlord is the only one who has a key and the door only locks on the landlord's side so the tenants are unable to prevent her accessing their unit. The landlord's handyman who was putting in the washer and dryer also entered the tenants' unit without notice. Between the landlord and her handyman this has occurred at least five times. The tenants seek to have conditions set on the landlord's right to enter.

The tenants seek an Order of Possession of the rental unit. The tenants agreed that they are still living in the unit but they want an Order allowing them to access the breaker panel and the laundry downstairs until the landlord has ensured the washer and dryer installed in the tenants' unit up to code and working correctly.

The tenants seek authorisation to change the locks to allow the tenants access to the lower level and to be able to lock their unit off from the lower level.

The tenants testified that at the previous hearing they obtained a Monetary Order which the landlord has not paid. The tenants seek an Order to permit them to deduct the money owed to them from their rent. The tenants also seek to deduct the amount claimed of \$460.00 for the laundromat from their rent.

The tenants' witness KA gave testimony that she was the occupant that the tenants had agreed could rent the garage level bedroom from May, 2016. The landlord then contacted the tenants and said they could no longer use that bedroom so the tenants allowed KA to stay in their guestroom. KA testified that she had filled in an application and had given it to TJ but she never heard back from him. KA testified that she lived in the tenants' unit until August 01, 2016 but did not have to pay rent. Both the landlord and TJ knew KA was staying there. While KA was there the landlord and her handyman installed a washer and dryer in the tenants' unit; however, this was not done properly, was unsafe to use and the washer was leaking. Both the building inspector and the fire inspector both said it was unsafe.

KA testified that she was present and observed the landlord and the handyman enter the unit. The landlord also installed a door and locked it to prevent the tenants' access. KA testified that she recently visited the tenants and could see that the landlord had still not fixed everything and the tenants were still locked out of the basement.

Counsel for the landlord asked KA at what point did she get authorisation to live in the basement. KA responded that she got authorisation from the tenants as at that point she had not met the landlord and was not aware of TJ. Counsel asked KA when she met the landlord. KA responded the first week of May, before she took the tenants' guestroom when the landlord came to town to do some renovations downstairs. Counsel asked KA if this was after she had moved in. KA responded no before she moved in; she did not move in until the middle of May. Counsel asked KA if she had confirmation from TJ to move in. KA responded no, they could not get hold of TJ.

TJ asked KA at what point did she contact him to become a co-occupant in the unit and when did she bring her application to him. KA responded that this was done through the tenants and KA gave her application form to JO to give to TJ. TJ asked KA if her address and phone number was incorrect as the phone was not connected and TJ could not get hold of KA. KA responded that she filled out the form and contacted the tenants and tried to contact TJ. A street address was given on the form and only the previous address was provided. TJ testified that he could not contact KA as she provided an incorrect number and he did not receive the form until a week after she was moving in.

The landlord asked KA to state when she said she had met the landlord. KA responded that they met at the time KA came to meet the tenants and the landlord was there so KA introduced herself.

The landlord's rebuttal

The landlord disputed the tenants' claim for \$1,000.00 for a rent reduction. The landlord testified that on October 25, 2015 she had emailed the tenants to say she had conditionally accepted them as tenants. The tenants were informed that the rent was \$1,300.00 per month plus utilities but the tenants said they could not afford that. The landlord suggested at that time that they get a roommate who could rent the landlord's bedroom during the winter months. The landlord testified that she arrived at the house on April 24, 2016. The tenants had been given notice of this through e-mail and text. The landlord testified that she only gave permission for the tenants to rent the lower bedroom until their previous occupant moved out. The house is on four levels; the tenants rent the upper two levels but level three and four are for the landlord's use with the exception of the tenants accessing the laundry room on level four. The tenants had been informed that the landlord would come to stay a week at a time. The landlord also mentioned to the tenants that she was going to put a washer dryer in their unit.

The landlord testified that on January 02, 2016 the landlord sent an email informing the tenants that she would be coming to stay downstairs and the tenant RB acknowledged that email. On April 03, 2016 the landlord informed the tenants she would be closing off the downstairs and putting in privacy doors with a separate entrance. The door would be a non-locking door to allow the tenants access to the laundry.

The landlord testified that when she arrived on April 23, 2016 the tenants informed her that they had someone moving in to the lower bedroom. The tenants had also been using the landlord's bathroom downstairs as there was evidence of water in the tub and on the floor. JO had told the landlord that he preferred the lower bathroom. It was at this point that the landlord decided to make the door a locking door and that a washer dryer would be put in the tenants' unit.

The landlord testified that she arrived with her handyman to do minor repairs and to put in the washer dryer in the tenants' unit. In order to appease the tenants, TJ and the landlord agreed to give them a \$200.00 rent reduction a month while the landlord was staying downstairs from April 24 to May 14, 2016, during this period the landlord testified she only stayed a total of three nights but was there in the day to do renovation work. This work was not started until after 2.30 p.m. in consideration of the tenants as they had night jobs and slept during the day. In June, July and August the landlord testified that she did not stay in the unit at all but just went to pick up provisions. The picture provided by the tenants showing the landlord entering the house actually shows the landlord entering her own unit. The landlord referred to her email dated April 03, 2016 in which she wrote to the tenants to say she would probable occupy her suite for the summer months.

TJ testified that the tenancy agreement says if another occupant is authorised by the landlord they can use the garage level bedroom and bathroom. An occupant was authorised for the winter months and the agreement ended on May 31, 2016 at the latest. The tenants were given written authorisation for that occupant. The tenancy agreement also states that despite clause six of the agreement an additional occupant fee would not be charged for that authorised occupant. This was done to help the tenants.

When the tenants agreed to let KA rent the room in their unit no authorisation was given to the tenants and that is why the landlord had the right to apply the extra rent for an additional occupant. If the tenants had asked if KA could move into the lower bedroom they would have been told that as it was the summer months the landlord would be making use of the suite and KA would not have been allowed to stay there. TJ testified that they had a meeting with the tenants who informed TJ that they had already promised KA a place to live and at that meeting TJ said she could say upstairs if she was accepted as a tenant. KA's application form was

incomplete and did not contain the proper address details and her phone number was also incorrect. Therefore, the tenants did not receive authorisation for an additional occupant.

TJ referred to the tenancy agreement clause 52 which states that “the tenants are aware and agree that the landlord may visit the house and temporarily reside on the lower level for periods of time generally not exceeding a week or two, a few times during the course of a calendar year, During these times, the landlord may have unfettered access to the bathroom on the garage level of the house and the garage, but the tenants shall retain exclusive use of the upper levels unless the tenant consents to other arrangements at the time. The tenant agrees that this is a part of the agreement and shall not be entitled to any kind of rebate or rent reduction during these times.”

TJ testified that the tenants may have forgotten it was the landlord’s plan to come and stay in her unit. The landlord did generously offer a rent reduction for June, July and August but not for May or September. This was offered on the condition of their acceptance and harmony as the landlord felt it would make the tenants less upset. Unfortunately the tenants became hostile towards the landlord and the landlord felt she had to change her plans for the summer. As the tenants did not keep their end of the agreement and provide harmony between the units, the landlord decided not to give them a rent reduction.

The landlord testified that she had agreed with TJ to offer the tenants \$200.00 reduction for a few months but in the three weeks the landlord was renovating, the tenants were hostile and accused the landlord of poisoning their dog and slashing their tires.

The landlord testified that at no time she did prevent the tenants’ access to the laundry room. The landlord does not have keys to the door; one key was left with TJ. It was the tenants who locked the door using a rope but they used the door to go back and forth to the garage.

TJ testified that both parties had access to the garage and from the garage you can access the door with the lock on it and therefore the laundry facilities. The tenants did not notify TJ that the washer dryer in their unit was not working or that there was a problem with the installation of the appliances. This was not determined until the fire officer informed TJ that there were problems.

The landlord testified that she has text message conversations with the tenants where the landlord asked them how the washer dryer was and the landlord gave the tenants the number for Sears. On May 20, 2016 a Notice was given to the tenants that Sears were coming to their unit. The landlord testified that in early June she called Jacks Appliances to attend at the unit and informed the tenants that he was coming to the unit to look at the washer dryer. When the worker came he did not do any work and informed the landlord that he was harassed by the tenants. The landlord called another plumber CGW to come to rectify issues with the washer dryer. They came out on June 24, 2016 and completed the venting and leveling of the appliances. The landlord testified that the landlord only heard from the building inspector on June 16, 2016 that the exhaust pipe as not up to code and she told them she had a plumber booked to deal with this issue. When the work was completed she emailed the building inspector to inform him.

The landlord testified that she does not know if the building inspector came out to inspect the work completed. All work was completed on the washer dryer on June 18, 2016. The tenants never contacted the landlord after this date to complain about any other issues. The landlord testified that she had obtained a building permit for the plumbing work for the washer dryer on May 13, 2016 and although she did not have a permit at that time to build out the back wall to accommodate the washer dryer she did obtain one later in September, 2016.

The landlord testified that she did agree to pay 25 percent of the gas bills to cover the extra heating of the house in areas not used by the tenants. The tenants were required to submit copies of the bills to TJ and up to March, 2016 the tenants were reimbursed for every bill presented. From March, 2016, TJ said he had not received any further utility bills from the tenants. Furthermore, the tenants had an authorised sublet tenant in the landlord's suite from January to April, 2016 and that tenant contributed towards the utility bills.

TJ testified that the last utility payment made by the landlord to the tenants was in April, 2016 after the tenants presented a gas bill to TJ. TJ referred to the tenancy agreement, clause five, which states that the tenants are not entitled to any rebate or rent reduction when the landlord stays on the property. TJ testified that the hydro bill presented in evidence is for hydro used when the landlord was not staying in her suite.

The landlord testified that she did use some minimal hydro when she was staying in the suite or doing renovations. This would have been for lights and power tools used; however, as the tenants had an unauthorised occupant staying with them upstairs from May to the end of July that occupant would also have been using hydro and gas for lighting cooking and showers and the landlord has no knowledge of what that occupant paid the tenant towards utilities.

The landlord disputed that she ever entered the tenants' unit without either written notice of entry or the tenants' permission. The landlord testified that the tenants gave permission for her to enter to do work in their unit after 2.30 p.m.

Counsel asked the landlord if this was an understanding between them that work was to be done. The landlord responded yes it was confirmed through email correspondence with JO.

The landlord testified that with regard to the tenants' claim for an Order of Possession. The tenants still have occupation of the rental unit. The breaker panel is in the same area as the laundry facilities on level four of the house. The landlord put a keypad on the door and the code was provided to TJ. Had the tenants wanted to access this area for the breaker panel of the laundry room they could have obtained the code from TJ as the tenants were no longer speaking to the landlord at that time. The fire safety officer was able to obtain the code to access this area from TJ so there was no reason the tenants could not have asked for the code. The landlord agreed that prior to this there was no door fitted in this area.

The landlord testified that the tenants had a key for the other door between level two and three and TJ had the other key. If the tenants wanted to lock the door on their side they could have done so by pushing the lock button. The door could then be unlocked by a key from the other side or by the tenants by pushing the button again from their side. TJ testified that the landlord has always been diligent about providing proper notice of entry or getting the tenants' consent to enter the unit.

The landlord disputed the tenants' claim for a loss of rental income; TJ testified that the tenants had an unauthorized occupant and could have charged her rent for the room.

The tenants asked the landlord how many doors are between their unit and the laundry room and are these doors locked. The landlord responded two doors and the tenants could access both of them had they asked TJ for the code. The tenants asked if the doors are up to code. The landlord responded that she does not know. She has a building permit to replace the doors to bring them up to code. The tenant's asked if it had been three months since the landlord was told that the washer dryer and the doors were not up to code. The landlord responded that she has been addressing the issues. The tenants asked if the washer dryer installation is up to code the landlord responded that the washer dryer is up to code. The tenants asked the landlord why she did not apply for building permits before she started to do this work. The landlord responded that she did not know she needed any other permits except the plumbing permit. The tenants testified that the landlord has said the tenants would not let contractors in or that they treated them poorly and if so where is the landlord's evidence of this. The landlord responded that she does not have evidence of this.

The tenants referred to their photographic evidence showing that the closet containing the washer dryer has still not been extended to meet with code. The landlord responded that she could not move the wall as she was waiting for the permit. The landlord agreed that the building inspector has still not signed off on this installation.

The tenants testified that they have been able to use the washer dryer since the middle of June, 2016 as it has then been balanced and vented but the washer still leaks.

Counsel for the landlord asked the tenants if they admit that KA helped them with utilities while she stayed in their unit. The tenants responded yes she helped with utilities and groceries. Counsel asked if the landlord gave permission for KA to live there. The tenants responded yes and they had a conversation about it and sent an application in from KA to TJ. Counsel asked the tenants if they have any evidence to support their claim to recover the additional occupancy fee. The tenants responded that the landlord said she would reduce the rent from April to September, 2016. Counsel asked the tenants if they raised this issue with the landlord. The tenants responded that they dealt with TJ and on April 25, 2016 they came to several agreements.

The landlord asked the tenants what were the conditions the tenants had to abide by to get the \$200.00 deduction in rent. The tenant responded that the landlord said she would make these deductions to counteract the additional rent.

Analysis

After careful consideration of the testimony and documentary evidence before me and on a balance of probabilities I find as follows: With regard to the tenant's application to recover compensation from the landlord of \$1,000.00 for not being able to rent out the garage level bedroom and having to pay rent for their unit of \$1,400.00 per month. I have reviewed the tenancy agreement and under clause. 51 of this agreement it states the following:

Landlord's use of lower levels

The tenant is aware and understands that the lower level and the garage level of the living areas of the house are reserved for the landlord's exclusive use. The tenant agrees that they will access the lower level for the purpose of accessing the breaker panel or using the laundry facilities for so long as those laundry facilities are the only ones in the house. The tenant shall be permitted the right of ingress and regress through the garage level while the landlord is not visiting as per clause 52. The tenant agrees that they shall not store any items whatsoever in the lower level of the garage level for the duration of time. If another occupant is authorized by the landlord, that occupant shall be permitted use and access to the garage level bedroom and bathroom. The basement room of the house, referred to as the studio is reserved for the landlord's use exclusively, and the tenant shall have no access to that room whatsoever.

Clause 52 of the tenancy agreement goes on to state the following:

Landlord's visits and short term stays

The tenant is aware and agrees that the landlord may visit the house and temporarily reside on the lower level for periods of time generally not exceeding a week or two a few times during the course of a calendar year. During these times the landlord may have unfettered access to the bathroom on the garage level of the house and the garage, but the tenant shall retain exclusive use of the upper levels unless the tenant consents to other arrangements at the time. The

tenant agrees that this is part of the agreement and shall not be entitled to any rebate or rent reduction during these times.

It is clear from the tenancy agreement that the parties agreed the tenants could have an authorised occupant residing in the garage level of the house and did so with the landlord's permission for a period of time till the end of April, 2016. When that occupant left the unit the tenants did not get written authorisation to re-rent that bedroom and bathroom to a new occupant. While I agree the tenants did provide an application for a new occupant to stay in their unit, no authorisation was given as the application form was not approved. I further find the landlord did inform the tenants that she was coming to stay in her unit in April, 2016 and therefore unless the tenants had written permission from the landlord to rent these rooms out again they should not have done so without the landlord's express written authorisation prior to the tenants excepting that occupant. The tenancy agreement states that the rent for this unit is \$1,400.00 per month; I therefore conclude that as the tenants did not obtain authorisation from the landlord as required under clause. 51 of the tenancy agreement then the tenant's claim for compensation of \$1,000.00 or a rent reduction for this amount for not being able to rent these rooms is dismissed.

With regard to the tenants' application to recover the additional occupants fee for May June and July of \$600.00. Clause 13 of the tenancy agreement states that only the tenants listed in the tenancy agreement may occupy the rental unit. A person not listed who without the landlords prior written consent, resides in the rental unit in excessive of 14 cumulative days in a calendar year will be considered to be occupying the rental unit contrary to this agreement. If the tenant anticipates an additional occupant, the tenant must apply in writing for approval from the landlord for such person to become an authorised occupant. Failure to obtain the landlords written approval is a breach of a material term of this agreement, giving the landlord the right to end the tenancy on proper notice.

Clause six of the tenancy agreement notifies the tenants that subject to clause 13 the tenants agree that for each additional occupant not named on the tenancy agreement the rent will increase by \$200.00 per month effective from the start of their occupancy. The acceptance of the landlord of any additional occupants does not otherwise change this agreement or create a new tenancy.

Having considered the testimony of both parties I find parties did have a verbal agreement that the landlord would reimburse the tenants \$200.00 a month for the additional occupant fee. The landlord testified that she did agree to reimburse the tenants but later changed her mind because the tenants did not stick to their agreement to provide a non-hostile environment. The landlord has provided insufficient evidence that this agreement hinged on a non-hostility clause and therefore I find the landlord withdrew her agreement after it was made to the tenants to reimburse them \$600.00. Once an agreement has been entered into either verbally or in writing then one party may not opt out of the agreement without the mutual consent of the other party. I therefore uphold the tenant's application to recover **\$600.00** from the landlord.

With regard to the tenants' application to recover compensation of \$1,800.00 for a loss of rental income; the tenants rented this unit on the top two floors as sole occupants with a proviso that they can rent out a bedroom and bathroom on the landlord's levels of the property with the landlord's authorisation. There is not a term in the tenancy agreement that states the tenants are entitled to rent this bedroom and bathroom out continually as the agreement states it will be used by the landlord for periods of time in any calendar year. Furthermore, the agreement states that the tenants shall not be entitled to any rebate or rent reduction during these times. I therefore find the tenants' application for compensation for a loss of rental income is dismissed as there is no provision under the tenancy agreement or the *Act* for the tenants to be awarded compensation of this nature for a space not included in their tenancy agreement.

With regard to the tenants' application to recover costs for the laundromat; I am satisfied that the landlord did prevent the tenants' access to the laundry facilities from May to Mid-June, 2016 when the landlord erected a door with a keypad at the entrance to the laundry facilities. While I accept the landlord may have given the code for this door to her agent, the landlord is required to provide this code to the tenants and the landlord and her agent failed to do so. The landlord did provide a washer and dryer in the tenants' unit but the installation of these appliances did not meet code and I am satisfied that the tenants could not use them until June 18, 2016 when they were made safe by the landlord. I am not satisfied that the tenants prevented access prior to this for the landlord's workers to remedy these issues and the landlord has insufficient evidence to support her claim that the tenants harassed a worker sent to do the work.

While I am not satisfied that the landlord has completed all the work to bring the installation of the washer and dryer in this closet up to code, I do find the tenants agreed they could use the washer and dryer in their unit from June 18, 2016. Consequently, I reduce the tenants' claim for costs to do their laundry at the laundromat to six weeks instead of 10 weeks to an amount of **\$276.00**.

With regard to the tenants' claim to recover \$24.28 for utilities; the tenants argued that they had to pay for the utilities for the entire unit even when the landlord was not staying in her unit. This increased their costs as they had to pay extra to heat the landlord's portion of the home. The tenants have provided one hydro bill to show a slight peak in usage in May, 2016; however, the tenants have not provided any other utility bills for comparison and they had an additional unauthorized occupant residing in their unit through part of May, 2016. Without further corroborating evidence to support higher utility bills I find I must dismiss this section of the tenants' application.

The landlord did agree at the hearing that she had agreed to pay 25 percent of any gas bills to cover additional heating costs once the tenants presented those bills to the landlords agent. I find therefore that the tenants should present any further gas bills and request reimbursement from the landlord for her 25 percent share.

With regard to the tenants' application to suspend or set conditions on the landlord's right to enter the rental unit; the tenants argued that the landlord or her contractor has entered the unit without written Notice on at least five occasions. The landlord argued that this is untrue and she is diligent in either providing written notice or seeking the tenants permission to enter. 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. I am not satisfied that the tenants have provided sufficient evidence to show the landlord or her contractor has entered the tenants' unit without proper notice or permission from the tenants and therefore the burden of proof has not been met. I dismiss this section of the tenants' application.

With regard to the tenants' application for an Order of Possession; the tenants remain in possession of the rental unit therefore no Orders will be issued concerning this. The tenants

argued that what they seek is an Order to access the breaker panel and the laundry facilities on the forth level of the landlord's unit. I find the tenants now have access to laundry facilities in their own unit. If these facilities are not signed off by the building inspector as safe to use, then the tenants' access to the laundry facilities on the forth level must be restored to them by the landlord. Furthermore, as the landlord is absent for the majority of the year the tenants must be given access to the breaker panel to reset any blown breakers without having to wait for the landlord's agent to come to give them access. I therefore Order the landlord to ensure she provides the tenants with the code to the door on the level of the house where the laundry facilities and breaker panel are located. The tenants must only access this area if their laundry facilities in their unit are not functioning or not signed off by the building inspector or if any breakers blow and need to be restored.

With regard to the tenants' application to change the locks to the rental unit; I have reviewed the photographic evidence sent by the tenants and the testimony before me regarding this matter. I am satisfied that the lock on the door between the tenants' unit and the landlord's area has a key in the lock which the tenants can use to access their unit. A landlord has a right to have a key to the tenants' unit but must only use that to access the tenants' unit once a 24 hour written notice has been issued or an emergency exists that requires entry to protect life or property. At any other time the tenants can still secure their unit by a lock button on their side of the door. The tenants may take the key out of the other side of the door and keep that on their possession as long as the landlord or her agent has a copy of that key. If the landlord does not have duplicate keys the tenants can either make copies of the key which must be paid for by the landlord or give the landlord or her agent the key to copy and then return the original to the tenants. The tenants' application to change the locks is dismissed.

With regard to the tenants' application to reduce rent to cover the cost of a Monetary Order issued at the previous hearing for \$100.00 and to cover the costs for their laundromat claim; as the tenants were issued a Monetary Order for \$100.00 at a previous hearing the tenants must serve a copy of that Order to the landlord and if the landlord fails to comply with that Order the tenants may enforce it in the Provincial Court of British Columbia. Any Monetary awards issued at this hearing may be deducted from the tenants' future rent payments as directed below.

As the tenants claim has some merit I find the tenants are entitled to recover the filing fee of **\$100.00** for the cost of this proceeding pursuant to s. 72(1) of the *Act*. The tenants are entitled to a monetary award as detailed below:

Compensation for additional occupant fees	\$600.00
Laundromat costs	\$276.00
Filing fee	\$100.00
Total amount due to the tenants	\$976.00

Conclusion

I HEREBY FIND in partial favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$976.00** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the landlord. Should the landlord fail to comply with the Order the Order may be enforced through the Provincial (Small Claims) Court of British Columbia as an Order of that Court.

The reminder of the tenants' application is dismissed without leave to reapply.

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 15, 2016

Residential Tenancy Branch