Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Summit Pacific Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDCL-S, MNDL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for unpaid rent of $924.00; and a monetary order for damage or compensation for damage under the Act of $140.00; and for a monetary order for damages of $1.00 [to be determined]; and to recover the $100.00 cost of their Application filing fee.

The Tenant and an agent for the Landlord, S.S. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties confirmed their email addresses at the outset of the hearing, as well as their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

In explaining the hearing process, I advised the Parties that pursuant to Rule 7.4, I

would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The Parties agreed that the tenancy started as a fixed term running from March 1, 2017 to May 31, 2017, and ultimately turning into a month-to-month tenancy in July 2018. The Parties agreed that the Tenant paid the Landlord a monthly rent of $967.00, due on the first day of each month. They agreed that the Tenant paid the Landlord a security deposit of $433.50, and no pet damage deposit. The Parties agreed that the tenancy ended when the Tenant moved out on May 31, 2020.

The Parties agreed that they inspected the condition of the rental unit at the beginning of the tenancy, but that the Landlord did not give the Tenant a copy of the condition inspection report ("CIR"). They agreed that the Landlord conducted a move-out inspection of the condition of the rental unit on June 6, 2020; however, the Tenant said she was getting married that day.

The Landlord applied for a monetary order against the Tenant for unpaid rent of $924.00. They applied for a monetary order for damage or compensation for damage under the Act of $140.00 for inappropriate notice to end the tenancy and for unpaid utilities in June 2020. The Landlord also applied for a monetary order for damages to the rental unit in the amount of $1.00 [to be determined], retaining the security deposit to apply to these claims. The Landlord submitted a monetary order worksheet ("MOW") with claims amounting to $4,489.61, which is consistent with the Landlord's note in the Application stating:

> As of the date of filing we are working to repair damage and a total is being calculated. We have included the move in/move out inspection, as well as pictures from the move in inspection. Move in inspection pictures are noted by their date as the file name. Also included is the documentation as the tenant was not present for the move out inspection despite being given the final notice via email.
>
> [reproduced as written]

The Landlord submitted extensive evidence to the RTB, including two files containing merged evidence of 20 pages and 25 pages, respectively. I find this was provided to the Tenant sufficiently before the hearing to allow the Tenant to review and respond to this evidence.

The items we reviewed in the hearing are set out in the following MOW:

	Receipt/Estimate From	For	Amount
1	[Construction co.]	Door jam repair	$800.00
2	Reuter Holdings	Paint supply	$166.95
3	Reuter Holdings	Fridge door racks	$72.33
4	Reuter Holdings	Repair labour	$1,874.25
5	Reuter Holdings	Cleaning labour	$278.25
6	Reuter Holdings	Repair supplies	$133.83
7	June rent	June rent	$924.00
8	June utilities	June utilities	$140.00
9	RTB Filing fee		$100.00
		Total monetary order claim	**$4,489.61**

#1 DOOR JAM REPAIR → $800.00

The Agent said:

> I'd like to refer to the Tenant's evidence, which is a letter from [L.B., a friend of the Tenant's], which says:
>
> > The front door froze shut on January 14th, 2020 after a cold snap and a big winter storm. The door froze shut as with the lock. I was stuck outside in the freezing cold. We tried to unfreeze it with a blow dryer, and it did not work so we proceeded to remove the lock and door knob. In the process, the door frame became compromised.
>
> They broke the door.

The Tenant said:

> That was my witness statement; let me just grab it here. It was on January 14, a big winter storm and cold snap. The door froze completely shut. I was inside, he was on his way over. I tried using the dryer to thaw it. I called [the Agent], but he didn't answer, so I left a message. [M.] got the message and she called me back.
>
> I told her that the door handle was completely frozen. I could move handle, but the bolt of the lock in the door was completely stuck. I had my tool box, I unscrewed the door handle and the bolt slid out. She said the lock was all rusty – it was compromised before that. [R.], her husband, was the handyman. She said he'll fix the door frame and the lock replacement.
>
> He looked at the pre-existing one that's shot. He said, 'I need to replace the frame later.' I have text messages with [R. and M.] – see page 15 – saying someone would be there today…. Obviously, we stuck around – with the snow storm, we couldn't go anywhere or close it. Next [R.'s] text that we need a door knob installed. He came a few hours later, replaced the handle and lock and screws in the frame, but he still needed to replace it.

The Agent said:

> The door frame was not noted to be broken in the move-in inspection, but it is noted on the move-out. We have no evidence submitted that there was any issue with the door handle prior to this event.

The Tenant said:

> Previous to that day, when it had been extremely cold, there had been no pre-existing issues with the door. It was when we had the cold snap that it was frozen shut. The lock was completely frozen in the door frame. When I took the handle off, it was compromised by the weather; and before I did anything, I called [the Agent], but he didn't answer. I called [M.] and she said [R.] was on his way.

The Agent said:

> The move-in inspection shows no damage, and there's damage now. The Tenant's own evidence shows . . . duty of care of the tenant regardless of the circumstances. If a pipe bursts when they had care and control of the unit, this is

when the damage happened.

The Tenant said:

> There was rust in the lock. Did he say anything about it? I had been living there for three years, and [M.] only came once or twice for routine inspections. I kept the lock, put it in a Ziplock bag and he saw it. The bolt inside the door was rusty. He said the lock was extremely shot. Everything was in fine working order before this. [M.] had said to take the handle off and the bolt.
>
> For [the Agent's] comment re duty, on October 29, 2019 I emailed [M.] and [the Agent], because of a methane smell in the bathroom. A plumber came on the 12th. He resealed the toilet, said [R.] didn't do a proper job the first time. It's a double standard, telling me that when there's a methane and gas smell in the suite, but they wouldn't address it in a timely manner. That shows they didn't have our best interest in mind.

The Agent questioned how this relates to the claim, and the Tenant said: "It speaks of their character as well."

The Agent said that he has an $800.00 quote in evidence. He said: "I haven't had the door fixed yet. We'd like to recover the money. The loss we're out is proven by the CIRs – we're out a significant financial burden already."

#2 PAINT SUPPLY → $166.95

As the source of five of the Landlord's claims was a company name, I asked the Agent about the company. He said it belongs to [R.], the Landlord's handyman. The Agent said:

> We bring him in to do a wide variety of repairs. Instead of paying a painter, it's more cost effective [to use R.'s company], because we were trying to get the unit rented as quickly as possible. We had [R.] in there quickly to do this work - to mitigate loss for improper notice.

The Agent said that the last time the rental unit was painted was "Some touch-up paint in between tenants. Not since it was originally built about five years ago."

In answer to how many rooms were painted, the Agent said:

> Based on the pictures, there were walls here and there that needed to be painted. See the move-out CIR: there were chips throughout, on the door, the entry way, extensive chips and damage in the living room. In the kitchen there was nothing really. Nothing in the bathroom. There was damage in bedroom number one from shelves being removed from the wall. The pictures show a better understanding of the chips and nicks.

The Tenant said:

> When I moved in, I had spoken to [C., (the first caretaker)], and she told me we haven't had a chance to paint the suite, because you moved in right away. We're going to get someone there in the next couple weeks. She sent a gentleman over. He put a little putty on a wall, and said he'd do the rest when he came back. He never did come back and nothing was ever painted. I asked if could hang up pictures. She said yes. but if we're mounting a TV console to ask first.
>
> Everything was kept in order and clean, I took care of it. That's where my son grew up. We left when he had just turned four. I wasn't going to make a bad environment for my kid. I didn't have parties; friends and family would come over occasionally. Eventually my fiancé, but I don't believe I did any significant damage, and nothing had been painted before I moved in.

The Agent said: "In an effort to try to avoid situations, we take pictures at the move in … you can't upload the full damage. Also, back to the move in inspection, which was signed by the Tenant. "

The Tenant said: "I did sign the move-in inspection under good faith about things being patched up and repainted as well."

The Tenant submitted a written statement from a friend, [J.D.], who wrote:

> To whom it may concern,
>
> I was with [the Tenant] when she moved in to her place [intelligible words]. The walls were never painted once while she lived there. There were holes in the walls and paint was chipping. [The Tenant] asked if it would be painted, but [C.] who constantly promised it would, never once came over to do it.
>
> [J.D., Signature, telephone number]

The move-in CIR indicates that the interior paint was needed on the walls and trim in the entryway, the living room, the kitchen, the second bedroom, and that there were chips in the paint in the bathroom cabinet handles, and a “rip in paint” in the bathroom walls and trim. The move-out CIR states that there were “extensive chips throughout” the rental unit.

#3 REFRIGERATOR DOOR RACKS → $72.33

The Agent said: “They are not shown as missing on move-in, but they were missing on move-out, so we replaced them.”

The Tenant said:

> They were there on move-in, but not at the end. Something happened at the beginning; they were already cracking on the inner part of the handle. [C.] said she’d get it replaced, and that was when [M.] took over and nothing was done about it.
>
> They ended up completely breaking. They were broken on the inside, so his pictures wouldn’t show that. Eventually over time it was cracked and it eventually broke. I had spoken to [C.] about that at the beginning. Contact [M.]? [C.] said she would pass on the information to [M.]. Nothing happened with that just like nothing happened about the painting.

In the kitchen section of the move-out CIR, it has a category for the refrigerator, as follows:

> Refrigerator
> - Crisper/Shelves
> - Freezer
> - Door/Exterior

The notation for the crisper and shelves or racks on the CIR is that they are dirty, but not broken.

#4 REPAIR LABOUR → $1,874.25

The Agent referred me to invoice number 1599 on the Landlord’s evidence on page 20 of 20. He said he used the renovation labour plus GST for the full repair labour claim.

On this invoice, the handyman has listed the actions he took in doing repairs to the rental unit. These were stated to be the following:

> Patching, painting window sills and walls, remove and clean light switches, door jams repaired, caulked bathroom baseboards and entry hall and fridge wall to baseboard heater caulked. Replace bathroom trim by door from water damage, replaced bifold door track in entry and alignment spring re-installed, Kitchen and bathroom drawer and cabinet pulls removed and replaced, installed door stops, unclogged and cleaned dryer, vacuumed and cleaned bathroom fan and bathroom grate.
>
> [reproduced as written]

The Tenant said:

> I believe in what he had said before, that the handles on the cupboards were damaged from child locks. [M.] gave permission to use the child locks. I noted that they were already chipping from a previous tenant.
>
> I cleaned the walls and cleaned everything, just not steam clean the carpets, because they were not renting out steam cleaners, and I couldn't afford a professional steam cleaner.

The Tenant submitted texts she exchanged with the caretaker, M., in which on May 17, 2018 the Tenant said:

> I need to have another lock installed on my front door. My son has reached the age where he is tall enough to unlock the lock and push the handle down to open it. And those handles do not provide the opportunity to child proof. If you can let me know about this, that would be great!

On May 28, 2018, the caretaker emailed the Tenant back saying:

> I talked to the owner and he is not prepared to alter the door lock at this point. I did some investigating and it looks like you can get something cheap on amazon that has great reviews and is temporary. [URL provided] There were lots of alternatives.

The Agent said: "Permission to use something doesn't give you permission to damage it. You can't see when those pictures were taken."

The Tenant did not testify or direct my attention to anything she had uploaded to the RTB about what information this URL provided. I review what is before me, but I do not do research to follow up on a party's evidence.

The Tenant commented on the photographs she submitted of the rental unit:

> Those were taken on the day that I moved out. We packed everything, we finished cleaning, and I took pictures. See the picture of the bathroom and that the bath mat was still there. It wasn't there when I moved in. On page 21, my dust pan is in the picture, as well.

#5 CLEANING LABOUR → $278.25

The Agent said:

> This is the last item on invoice 1599. He notes things that are dirty and stained – the areas not cleaned in the pictures. See the full list of all pictures itemized on pages 13 to 15.

The Tenant said:

> Me, my fiancé, my brother, and sister were cleaning. The only thing we weren't able to do was steam clean, because you couldn't rent one then [state of emergency]. It was clean: See video – it was not a pig sty. I took care of it. I have a toddler. I wasn't going to live in a dusty, dirty place. We cleaned it, pulled out fridge, stove, oven, cleaned behind there. There are stains on the carpet on pa 22, - it had been there upon moving in. But everything was cleaned.

The Agent submitted over 60 photographs of the rental unit to illustrate how dirty it was at the end of the tenancy. I randomly reviewed ten photographs that showed me the following about this issue:

	Photograph	Illustrates
1	Kitchen_blinds_dirty_1	Close up of 4 or 5 slats of a kitchen blind with dirt on 3 of the slats
2	Kitchen_Cabinets_dirty_2	Looks like the top of the cabinets, which has marks and some debris
3	Kitchen_Oven_dirty	Very dirty oven door evident

4	Bathrm_cabinet_drawer_dirty	Small amount of dirt in corner of drawer.
5	Bathroom_toilet_dirty	Mark on underside of toilet seat – permanent stain or removal mark uncertain, but clean bowl
6	Bedroom1_dirty_wall	Lightswitch with a few spots around it.
7	Bedroom2_frame_dirty	Close up of spots on an undetermined item.
8	Laundry_room_dryer_vent dirty	Dryer screen filled with lint.
9	Living room _Stains_Carpet	Close up of dirty marks on a beige carpet.
10	Entry_Additional_Damage Chain_Link	Marks and paint spot beside the door chain.

#6 REPAIR SUPPLIES → $133.83

The Agent said that this is the fourth item on invoice 1599. He said there were miscellaneous supplies that needed to be replaced, like knobs, light bulbs, etc.

The Tenant said:

> Again, with the knobs for cupboards, they were chipped prior by the previous tenant. See the email on pages 13 and 14, where she authorized the use of child safety locks. I did leave a pack of lightbulbs on the counter, as well.

The Agent said: “Again, use is not permission for damage. She may have left lightbulbs in the unit, but there’s no evidence of that.” The Tenant said she had more pictures, but she did not submit them. She said: “I only had a day to put my package together.”

#7 JUNE RENT → $924.00

The Agent said that the Tenant did not give the Landlord proper notice of ending the tenancy. He said that the Tenant gave notice on May 2, 2020, for an effective vacancy date of May 31, 2020. He said that they found a new tenant for July 1, 2020, which he said was challenging, because it was in the middle of the Covid pandemic.

The Agent said they advertised the same way they always do on two different online websites that include tenancy listings. H said: “We did our best, but we can’t find

somebody in that time frame."

The Tenant said that she was laid off from her full-time employment on January 28, 2020. She said she applied for employment insurance, and she is a single mom. The Tenant said that she went on employment insurance and secured another temporary, full time job. She said:

> I started that job, then Covid hit. On March 19, I had to quit my job, because the daycare closed. Because I was laid off initially in January and I was already on employment insurance, I was not eligible for any of the [Covid] benefits. I didn't fall within the Covid timeframe.
>
> I have another email to [M.]. She emailed me – asked if everything was fine, anything they could do…. I told her I was laid off from work and trying to make it work. I wasn't able to get the CERB benefit. I had savings – I had to pay rent – it made up 55% of wages from employment insurance. I had rent, food, bills, diapers. It was financially impossible.
>
> On May 2 I learned that I had no hope of having daycare… I emailed [M.], "Hey I'm getting married, there's a global pandemic, but that was not a good enough reason. I told you I wasn't working since January. I don't want to continue living here and you can't kick me out, that's what the RTB says. I have an opportunity to have another tenant to come in here. Ultimately, I was looking in the best interest of myself and them. She said it was two days too late for giving notice [to end the tenancy], and I have to pay June's rent. I said I physically can't.

The Agent said:

> I sympathize with her on her journey. I wish that we had been able to rent it right away. But we also find ourselves in the middle of Covid. I sure would like to be doing a lot of other things. I have to say I'm owed this amount of money, which I don't like to say. I wish there were other solutions, but this is where we are.

The Tenant said about the showings that: "[M.] had emailed me that she wanted to show the suites. I followed up with a screen shot from the RTB where it says:

> To encourage physical distancing and minimize the transmission of COVID-19, the emergency order says that landlords are not permitted to enter the rental unit without the consent of the tenant (even if proper notice has been served) unless

there is risk to personal property or life. If parties are not sick or in self-isolation and the tenant does consent, everyone should maintain safe physical distancing and practice all other health measures to prevent transmission.

A landlord must receive consent from the tenant before entering the unit for the following reasons:

- Making regular repairs
- Showing the unit to prospective tenants
- Hosting an open house

When showing units to prospective tenants, a landlord can consider:

Showing vacant suites
Using virtual tours, video conferencing, photos, and online floorplans,
Sending documents via email and using electronic signatures
Using online payment methods
Conducting communications by email, phone or video conferencing.

The Tenant said:

> [M.] wanted to do a walk-through showing, but because my son immunocompromised, I didn't want to have strangers just walking through. She said she understands that, because it is up to the discretion of the tenant. She asked for a virtual showing – part of the video I submitted. Because of their going into the suite, and going around it, I was under the impression that that was going toward having it rented for June 1.

The Agent said: We tried for June 1 as hard and as quick as we could. Figuring out how to do your business in short order in a brand new world was challenging for us, as well."

#8 JUNE UTILITIES → $140.00

The Agent was asked how the Tenant was notified that this debt was owing. He referred to the second addendum in the tenancy agreement, which states:

> 2. **Utilities**: The tenant shall pay utilities of $140.00 per month which will include the reasonable and regular daily use of electricity, water/sewer, natural gas, and will also provide for garbage pickup for those listed on the lease agreement. Any

rent increases will be based on the actual amount of rent, not including utilities. In the event that additional people move into the unit, the utilities will increase $125.00 per additional adult and child per month effective immediately or from the date the additional residents took up occupancy in The Rental Unit.

a. The amount charged for utilities may be increased by the Landlord with 30 days written notice.
b. For simplicity, the utilities are paid in advance with rent each month, and is due on the 1st of each month.

This document has the Agent's signature, but not the Tenant's.

The Tenant said:

> Just everything that I mentioned for the June rent – it all corresponds together. I didn't receive any notice that this amount was owed. I had been receiving her emails just fine. I just found out about this when I got the notice from you guys.

#9 RTB Application Filing Fee → $100.00

I advised the Parties in the hearing that an arbitrator has the discretion to award the recovery of this fee to a party, depending on the party's success in the hearing. Therefore, I will determine this amount at the end of my analyses.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Parties testified, I advised them on how I would analyse the evidence presented to me. I said that a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim.

In this case, the Landlord must prove:

1. That the Tenant violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Landlord to incur damages or loss as a result of the violation;
3. The value of the loss; and,

4. That the Landlord did what was reasonable to minimize the damage or loss.

   (“Test”)

Landlords’ and tenants’ rights and obligations for repairs are set out in sections 32 and 37 of the Act. Section 32 states:

> **Landlord and tenant obligations to repair and maintain**
>
> **32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that
>
> > (a) complies with the health, safety and housing standards required by law, and
> >
> > (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.
>
> (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.
>
> (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.
>
> (4) A tenant is not required to make repairs for reasonable wear and tear.
>
> (5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Section 37 of the Act states:

> **Leaving the rental unit at the end of a tenancy**
>
> **37** (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.
>
> (2) When a tenant vacates a rental unit, the tenant must
>
> > (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
> >
> > (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

#1 DOOR JAM REPAIR → $800.00

I find that the damage to the door was the direct result of the door having been frozen shut by the unusually cold weather at the time, which is not the fault of the Tenant. I find there is credible evidence before me that the lock mechanism had some rusting, according to the Tenant's hearsay evidence from the caretaker, M., which contributed to the problem.

I find that the Landlord has not provided sufficient evidence to support their claim that the Tenant violated the Act, Regulation or tenancy agreement in this regard. As a result, I dismiss this claim without leave to reapply.

#2 PAINT SUPPLY → $166.95

Policy Guideline #40 ("PG #40") is a general guide for determining the useful life of building elements for determining damages. The useful life is the expected lifetime, or the acceptable period of use of an item under normal circumstances. If an arbitrator finds that a landlord makes repairs to a rental unit due to damage caused by the tenant, the arbitrator may consider the age of the item at the time of replacement and the useful life of the item when calculating the tenant's responsibility for the cost of the replacement.

In PG #40, the useful life of interior paint is four years. The evidence before me is that the rental unit was newly painted "about five years ago", so it was approximately five years old at the end of the tenancy and had none of its useful life left. The move-in CIR indicates that the interior paint was needed on the walls and trim in the entryway, the living room, the kitchen, the second bedroom, and that there were chips in the paint in the bathroom cabinet handles, and a "rip in paint" in the bathroom walls and trim. This is consistent with the Tenant's testimony and the statement from a witness, who said that she was with the Tenant when she moved in, and that she knows the rental unit was never painted during this tenancy.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures to a rental unit, a claim for damage and loss is based on the depreciated value of the item and **not** based on the replacement cost. This reflects the useful life of fixtures, such as carpets, countertops, doors, coats of paint, etc., which depreciate all the time through normal wear and tear.

I find that the Landlord failed to provide sufficient evidence to establish that the Tenant

violated the Act, Regulation or tenancy agreement in this matter. I, therefore, dismiss this claim without leave to reapply.

#3 REFRIGERATOR DOOR RACKS → $72.33

The Landlord said that the door racks were not shown as missing on the move-in CIR, but that they were missing on move-out. However, the CIR states that these items were dirty at move out, not missing or broken. As such, I find that the Agent's testimony on this point is lacking reliability.

In contrast, the Tenant said that the door racks were there on move-in, but not at the end of the tenancy. She said that they were already cracking on the inner part of the handle and that the first caretaker of the tenancy said she would have them replaced. The Tenant said that like the painting, nothing happened about the promise to replace the door racks.

Given the evidence before me overall on this matter, I find I prefer the reliability of the Tenant's evidence. As a result, I find that it is more likely than not that the door racks were not in good shape at the start of the tenancy and that they were never replaced by the Landlord. Accordingly, I dismiss this claim without leave to reapply.

#4 REPAIR LABOUR → $1,874.25

If the handyman billed his labour at a standard rate of $30.00 per hour, this work would have taken him approximately 60 hours. If the items listed were broken down and a generous amount of time allotted to each item, the work takes nowhere near 60 hours to complete:

5 hours	Patching, painting window sills and walls,
2 hours	Remove and clean light switches, door jams repaired,
3 hours	Caulked bathroom baseboards and entry hall and fridge wall to baseboard heater caulked.
2 hours	Replace bathroom trim by door from water damage,
3 hours	Replaced bifold door track in entry and alignment spring re-installed,
1 hour	Kitchen and bathroom drawer and cabinet pulls removed and replaced,
1 hour	Installed door stops,
1 hour	Unclogged and cleaned dryer,

1 hour	Vacuumed and cleaned bathroom fan and bathroom grate.
19 hours	TOTAL

Even if the labour were billed at $50.00 per hour, it would have taken 36 hours to complete these items, and I find that $50.00 an hour is not evidence of the Landlord mitigating or minimizing their loss or damage, pursuant to the fourth step of the Test. Accordingly, I find that the Landlord's caretaker has overstated the number of hours and or the billable rate in this invoice. I find that this invoice is not a reliable record of work that occurred in this matter.

Further, most of the comments on the move-out CIR address items being dirty, rather than needing repair or replacement, other than light bulbs. There is nothing in the CIR about door jams needing repair or about kitchen and bathroom pulls and/or knobs needing to be replaced. In addition, labour for cleaning is covered in the next claim.

As a result of these considerations of the evidence before me, I dismiss this claim without leave to reapply.

#5 CLEANING LABOUR → $278.25

Section 32 of the Act states that tenants "…must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant." Section 37 states that tenants must leave the rental unit "reasonably clean and undamaged".
Policy Guideline #1 helps interpret sections 32 and 37 of the Act:

> The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act* (the Legislation).
>
> Reasonable wear and tear refer to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are

not necessarily the standards of the arbitrator, the landlord or the tenant.

[emphasis added]

Based on the evidence before me overall, including my random review of the Landlord's photographs, I find that the rental unit could have been cleaner at the end of the tenancy. However, I note that at a standard cleaning rate of $25.00 per hour, that the caretaker would have spent over 10 hours cleaning the rental unit. As noted above, this is a two-bedroom, one-bathroom rental unit with laundry facilities. Based on my experience as an Arbitrator reviewing claims such as this, as well as common sense and ordinary human experience, I find that it should not have taken more that five hours to clean this rental unit. Accordingly, I reduce the Landlord's claim in this matter to 5 hours of cleaning at $25.00 per hour for a total award of **$125.00**.

#6 REPAIR SUPPLIES → $133.83

In claim #4, I quoted the text exchange that the Tenant said she had with the caretaker, in which she said the caretaker gave the Tenant permission to use child locks. However, in this exchange, the Tenant had asked about adapting the front door lock, so that her son could not get out. The caretaker said that the owner was not prepared to alter the front door lock. The caretaker's only other comment related to a URL that was not explained or addressed by the Tenant. As such, I find that the Tenant has not provided evidence that she had permission to use child locks in the rental unit.

However, the Landlord has not provided an itemized description of the knobs, screws, light bulbs and door jams that were needed in the rental unit or what each item cost. I have found the Landlord's evidence to be questionably reliable previous claims, and I find that the lack of specification in this case raises questions in my mind about the source of this amount. As a result, I find that the Landlord has provided sufficient evidence to support a nominal award in this case of half the amount billed, pursuant to PG #16 and section 67 of the Act. I therefore award the Landlord with $66.92 for this item.

#7 JUNE RENT → $924.00

Section 45 of the Act sets out the requirements of a tenant giving notice to end a tenancy. Section 45(1) states:

Tenant's notice

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

. . .

(4) A notice to end a tenancy given under this section must comply with section 52 *[form and content of notice to end tenancy]*.

The Parties agreed that the Tenant gave the Landlord notice to end the tenancy on May 2, 2020. According to section 45 of the Act, the effective vacancy date of this notice should have been June 30, 2020. As such, I find that the Tenant breached section 45 of the Act in not having given the Landlord sufficient notice of the end of the tenancy.

Further, given the state of emergency and the Tenant's reasonable reluctance to allow the Landlord to show the suite to prospective tenants, I find that the Landlord was in a challenging position to find a new tenant. Regardless, the Landlord was able to find a new tenant for July 1, 2020, therefore, I find that the Landlord was affected by the Tenant's violation of the Act in losing rent for June 2020. Given these considerations of the evidence, I find that the Tenant is responsible for reimbursing the Landlord for one month's rent for June 2020, and I award the Landlord with the amount requested of **$924.00**.

#8 JUNE UTILITIES → $140.00

I find that the Tenant was aware of the Addendum to the tenancy agreement, which requires her to pay $140.00 per month to the Landlord for utilities. I find that the Tenant did not need the Landlord to advise her of the amount that was due, since it was a standard, fixed rate each month. As I have found the Tenant responsible for paying the Landlord rent for June 2020, so, too, do I find that the Tenant is responsible for paying the Landlord the agreed amount of utilities for the rental unit for June 2020. I, therefore, award the Landlord with **$140.00** from the Tenant for this claim.

Summary and Set Off

I find that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenant's security deposit of $433.50 in partial satisfaction of the Landlord's

monetary claim. The following sets out the Landlord's awards and security deposit set off.

	Receipt/Estimate From	For	Amount
1	[Construction co.]	Door jam repair	$0.00
2	Reuter Holdings	Paint supply	$0.00
3	Reuter Holdings	Fridge door racks	$0.00
4	Reuter Holdings	Repair labour	$0.00
5	Reuter Holdings	Cleaning labour	$125.00
6	Reuter Holdings	Repair supplies	$66.92
7	June rent	June rent	$924.00
8	June utilities	June utilities	$140.00
		Sub-total	**$1,255.92**
		Less security deposit	$433.50
		Total monetary order claim	**$822.42**

Given the Landlord's partial success in the Application, I award the Landlord with recovery of the $100.00 Application filing fee. I, therefore, grant the Landlord a monetary order from the Tenant in the amount of **$922.42**.

Conclusion

The Landlord is partially successful in their Application for compensation from the Tenant in the amount of $1,255.92. The Landlord was unsuccessful in the rest of the Application, because the Landlord provided insufficient evidence to substantiate their other claims. I also award the Landlord recovery of the $100.00 Application filing fee for a total award of $1,355.92.

The Landlord is authorized to retain the Tenant's $433.50 security deposit in partial satisfaction of this award. I grant the Landlord a Monetary Order for the balance owing by the Tenant in the amount of **$922.42**.

This Order must be served on the Tenant by the Landlord and may be filed in the

Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: October 29, 2020

Residential Tenancy Branch