



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on November 30, 2021, March 22, 2022, and April 22, 2022. The Tenant applied for monetary compensation, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord and the Tenant both attended all of the hearings and provided affirmed testimony. The Tenant had her legal advocate present. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The Landlord acknowledged receipt of the Tenant's application and evidence and confirmed he was able open and view all items sent to him on USB. The Tenant also confirmed receipt of the Landlord's evidence, which was sent via registered mail on a USB stick. The Tenant confirmed she was able to open the files. I find both parties sufficiently served each other for the purposes of this proceeding.

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

- Is the Tenant entitled to a monetary order for money owed or compensation for damage or loss under the Act?

Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

Both parties agree that the tenancy started on September 15, 2020, and that it ended on April 30, 2021, the same day the keys were returned and the Tenant vacated the unit. The tenancy agreement was initially set as a fixed term running until October 1, 2021. However, the parties suffered a breakdown in relations, and the Tenant moved out early, at the end of April 2021. Both parties agree that monthly rent was set at \$1,200.00 and was due on the first of the month. The Landlord lives with his family upstairs, and the Tenant rents the basement suite, with overlapping yard space.

The Tenant is seeking moving costs (\$400.00), and the costs she paid to clean the unit (\$210.00), because she feels she had to leave prematurely because of the Landlord's behaviour. The Tenant is also seeking 100% of her rent back over a 3.5 month period, from January 8, 2021, until April 30, 2021 (3.5 x \$1,200.00) due to loss of quiet enjoyment.

Tenant's submissions

The Tenant explained that she is a single mother, and has several ongoing medical issues, which created a very stressful situation for her when her relationship with the Landlord became contentious and hostile. The Tenant stated that sometime in October 2020, shortly after she moved in, she burned some toast in her suite, and the Landlord called her and lectured her about safety among other things. Then, sometime in November, the Tenant stated that she got a text message from the Landlord asking about some damage he noted on the side of the house. The Tenant referred me to a copy of this text message, and that the Landlord believed it was caused by the Tenant. The Tenant denied she caused the damage, and asserts it was there before. The Tenant stated that she felt accused and the Tenant started to feel uncomfortable with the Landlord's allegations.

In early January, there was an issue with a humidity sensor in the suite which needed to be adjusted or fixed. The Tenant stated that the Landlord wanted to come in immediately, but agreed to wait until the following day. Then, after the Landlord didn't

show up the following morning, the Tenant stated she didn't hear anything from the Landlord for a couple weeks, and then on January 8, 2021, the Landlord again reached out via text. The Landlord indicated his daughter had a minor cold, and that perhaps the issue could be dealt with via Facetime video call, as it was a simple adjustment. The Tenant responded by saying she knew how to fix it and could do it herself, and asked if that was ok. The Landlord tried to call the Tenant later on that day, and the Tenant missed the call as she was busy. The Tenant responded to the Landlord's missed call by asking for communication to be via text or email because phone calls were difficult. The Landlord responded by stating "no problem, I'll give you a call tomorrow".

The Tenant sent another text the following day saying she took care of it herself, and reiterated that communication by text or email is best. The Landlord responded via text message stating that he was becoming suspicious, and that he is not interested in text messaging. The Landlord asked for the Tenant to call him so they could arrange a face-to-face meeting. The Tenant responded by asking why the Landlord was suspicious, and explained that she was under doctor's orders to not have face-to-face contact with anybody. The Tenant again requested all communication be documented and in writing. The Landlord responded by stating things were escalating out of control and that a short conversation outside, following social distance protocol is a fair compromise. The Landlord explained in the text message response that he respects the Tenants health issues and since his daughter was not feeling well, he would wait 10 days before meeting in person to discuss so that these issues could be put to rest. This was on January 9, 2021.

Following this, Tenant sent the Landlord an email on January 11, 2021, again requesting that the Landlord only contact her in writing, and to stop trying to demand otherwise. The Landlord wrote an email back to the Tenant on January 11, 2021, indicating that they were willing to use written communication only but that they did not understand why there was so much hostility. The Landlord reiterated in this email that he believes a brief in-person meeting would have solved any misunderstandings. It does not appear there was a response from the Tenant immediately, then the Landlord wrote a letter to the Tenant on January 13, 2021, asking why there has been an escalation in hostility, and asking for the Tenant to reply as soon as possible, in order to restore peace.

The Tenant provided a copy of a letter, dated January 13, 2021, from the Landlord to give notice for a suite inspection on January 17, 2021, at 1pm.

The Tenant sent the Landlord a written letter on January 22, 2021, stating that she was not being hostile, and in this letter the Tenant cited multiple sections of the Act, and her right to quiet enjoyment. The Tenant asserted her quiet enjoyment was being impacted by the Landlords repeated and unnecessary phone calls, text messages, and emails, false accusations of hostility, false accusations of breaching the rental agreement, attempting to go through cupboard and closets in a monthly inspection, and comments that the Tenant should find somewhere else to live.

The Tenant also included a letter from the Landlord, dated January 30, 2021, stating that the Tenant was in breach of her tenancy agreement by having one or more pets. The Tenant provided emails into evidence from before the tenancy agreement was signed, showing that she told the Landlord she had a small pet lizard, and the Landlord replied by stating she seems like a "perfect fit".

The Tenant also provided a copy of another letter from the Landlord dated February 6, 2021, showing that the Landlord was taking issue with the Tenant's gecko, as it was not formally included in the tenancy agreement. The Landlord requested to confirm the pet was not venomous. The Tenant replied on February 9, 2021, confirming her gecko is non-venomous.

The Landlord conducted another monthly inspection on February 13, 2021, and followed this by giving the Tenant a written synopsis of issues. The Landlord noted that the sanitation was acceptable. However, the Landlord indicated that he felt the Tenant was interfering with the inspection of the pipes and the appliances because she her cabinets under the sink were full, which made it hard to inspect pipes. The Landlord also pointed out that he was unhappy about the Tenant covering a picture on the wall with a sheet because it appeared she was concealing the fact she had used wall anchors, contrary to what she is allowed to do in the tenancy agreement. The Landlord requested for the Tenant to only have one witness in the suite during inspections, and he requested to have their contact information.

In this February 13, 2021, letter/synopsis, the Landlord also took issue with the Tenant's use of wall anchors, and gave the Tenant 30 days notice to repair the damage. The Landlord included several photos in a February 17, 2021, letter, showing the spice rack that had been mounted to the wall, and an "anchor" the Tenant had used for a ceiling light, among other places. The Landlord asked for the Tenant to take down all wall items/decorations and that the Tenant repair any damage within the month, before the next inspection.

Following this, the Tenant sought assistance from an advocate, who wrote a letter to the Landlord on February 18, 2021. The advocate laid out that the Tenants concerns, to date, as noted above, and also pointed out that on February 5, 2021, the Tenant saw that the Landlord had put a security camera in the back yard, on the Landlord's deck, facing the suite. The Tenant put a blanket over the camera on February 9, 2021, while she was outside to have some privacy. However, she noticed that on February 10, 2021, the Landlord installed a camera, permanently, on the fence, facing the Tenant's space/entrance. The Tenant's advocate pointed out that the installation of the camera was a violation of her right to privacy under the Personal Information Protection Act of BC (PIPA).

The Tenant sent another letter to the Landlord on February 19, 2021, in part to respond to the inspection report/synopsis from the Landlord which he had sent on February 13, 2021. The Tenant took issue with the fact that she had to remove items from certain cabinets for the inspection, and she stated it was her right to keep belongings where they are, and that she was never given a proper list of what she needed to clear out. The Tenant also responded and explained that her painting was covered up because it was personal, and not because it was hung using wall hangers. The Tenant also asserted that she is allowed to have witnesses attend the inspections with her, and she does not have to share their contact information. The Tenant also denied that she drilled any holes or used any wall anchors, and has only used minor wall hangers/nails/screws.

The Tenant sent another letter to the Landlord on February 19, 2021, responding to the Landlord's request to remove all items from the wall because of allegations of the Tenant using wall hangers in breach of the tenancy agreement. The Tenant reiterated that the tenancy agreement only restricts the use of "drill holes" and wall anchors, neither of which she has used. The Tenant feels the request to remove all wall decorations is unreasonable and is further harassment.

The Tenant provided another letter from the Landlord, dated February 26, 2021, whereby he takes issue with not knowing who the Tenants advocate was, and that she was authorized to represent the Tenant. The Landlord stated that they refuse to respond to the Tenant's advocate, until her legitimacy can be verified. The Landlord further suggested that he feels the Tenant is being unreasonable, and obstructive. The Landlord also points to the fact that he has always had cameras on the property, and that they are only there to keep an eye on common property and entrances. The Landlord stated that none of the cameras view inside the suite and that the cameras are there to deter crime.

The Tenant provided a copy of a letter, from her advocate, dated March 3, 2021. The Tenant's advocate asked for the cameras pointing towards the Tenant's suite to be removed. The Tenant's advocate noted that the camera that is on the fence, and the one on the deck were not there at the start of the tenancy.

The Landlord responded via letter on March 9, 2021, stating the Tenant is allowed to use small nails to hang pictures, but using screws and anchors is not acceptable, and will cause a problem if/when the Tenant moves and when the suite needs to be turned over. The Landlord stands by his request to repair the wall holes, and denies that it is harassing in any way. The Landlord stated he felt it is reasonable to ask the Tenant to remove all wall decorations to ensure compliance with the Tenancy Agreement (Re: no wall anchors).

The Tenant also provided another copy of a letter from the Landlord, dated March 16, 2021, noting that they have observed the Tenant taking photos of the house and that this is suspicious. The Tenant stated she did this to protect herself and collect evidence in case things escalated further. Another letter from the Landlord on March 16, 2021, provides notice to the Tenant for the upcoming monthly inspection to see if the Tenant has made the required repairs (removed spice rack, lighting anchored to ceiling, shelf in bedroom).

The Tenant provided a letter in response, dated March 18, 2021, stating that she is not in breach of the tenancy agreement, and that she would not be clearing her items. The Tenant stated that she would have a witness with her at the upcoming inspection.

The Tenant sent the Landlord a Notice to Move out, on March 19, 2021, stating she would be vacating the rental unit by April 30, 2021, and that she accepted the Landlord's offer to mutually end the tenancy before the end of the fixed term. The Tenant offered 2 times for inspections, on April 30, 2021.

The Landlord sent the Tenant a letter on March 31, 2021, thanking for agreeing to mutually end the tenancy by way of the Mutual Agreement to End a Tenancy. The Mutual Agreement was provided into evidence, and both parties signed and agreed to end the tenancy, mutually, as of April 30, 2021, at 6:00 pm.

The Tenant also provided and pointed to some photos she took of the camera in the rear of the yard, showing it has a clear view over the whole yard, including her area, and towards her entrance/windows. The Tenant also provided a photo of the camera which the Landlord temporarily set up directly overlooking her suite patio, and the yard.

Landlord's submissions

The Landlord stated that the first part of the tenancy was relatively trouble free, until he started to notice odd smells coming from the downstairs suite. The Landlord stated that it smelled like burning chemicals or strange food. The Landlord stated that he suspected that the smell might be from drug use, which made him suspicious of what was going on downstairs. The Landlord stated they called the Tenant and asked about the smell, although the Tenant denied anything illegal was occurring. The Landlord stated that throughout the fall of 2020, the Tenant continued to text message about trivial things and it appeared she was not happy with the rental unit.

The Landlord stated that he noticed a crack in the house siding on or around November 18, 2020, and since it was right near the Tenant's entryway, he asked the Tenant what happened. The Landlord stated that the Tenant had sold some furniture to a 3rd party right around this time, so he suspected this is when it was damaged. The parties had a conversation about the damage, and although the Tenant denies directly causing the damage, she appears to have initially offered to pay for the repair. The Landlord explained that the relationship slowly degraded over the following months, and tensions became significantly escalated around the time when there was an issue with an electrical switch in the bathroom of the suite. The Landlord stated that the Tenant appeared to not want him to come in the rental unit and do the repairs, and eventually she stated she did the repair herself, which is contrary to the Landlord's wishes. The Landlord stated he repeatedly tried to deescalate the rising tensions by offering to meet the Tenant in person to discuss remedies and smooth things out. The Landlords stated that the Tenant denied the request to meet in person, and insisted that things be done in writing.

As noted above in the Tenant's submissions, the Landlord stated that he requested a condition inspection for the middle of January, and the Landlord opined that the Tenant was obstructing this inspection. An audio recording of the inspection was provided into evidence, which shows that the Landlord explained that he was there to inspect the condition of the rental unit, and as part of this process, he would generally walk around each room, and would also be looking at the pipes under the sinks in the kitchen/bathroom. The Tenant responded at this time by stating that the Landlord was not allowed to open any cupboards and "go through her stuff". The Landlord responded by stating that he was not interested in going through any person things, and that he just wanted to view and inspect the pipes and the plumbing under the sink. The Tenant told the Landlord he was able to walk through only, and then leave, without opening any

doors. The Tenant also told the Landlord he was unable to take any video of the rental unit while he was in there. The Tenant again told the Landlord that he could walk through, and “that’s it”. The Landlord offered the Tenant to end the tenancy if she was unhappy, and the Tenant requested that all correspondence be in writing. The inspection ended shortly thereafter, and the recording was terminated.

During the hearing, the Landlord confirmed and spoke to the same letters, emails and correspondence summarized above regarding the various condition inspections, requests, and escalating tensions in January – April of 2021. The Landlord stated he feel he always did their best to diffuse the situation, but he feels the Tenant was the one demanding things be done in a certain way, and on her terms.

The Landlord stated that part of the issue and an item they disagreed on was the use of “wall anchors” in the rental unit. The Landlord stated that he noticed several heavy items hanging from walls that would likely have required wall anchors, rather than small nails or screws. The Landlord pointed to a light hanging from the ceiling which the Tenant had installed, which was screwed into the drywall. Photos were taken and provided as part of one of the inspections in February. The Landlord pointed to the Tenancy Agreement, which specifies that only “minor” holes for the hanging of pictures and decorations is allowable, and that any drilled holes or wall anchors may not be done without the Landlord’s approval.

The Landlord stated that they also took issue with the Tenant’s advocate being so involved, and taking actions, writing letters, and interacting directly with the Landlord. The Landlord stated that they believe this advocate overstepped her role as an advocate, as the policy guidelines specify that an advocate is usually only involved in preparation for hearings, or disputes, and shouldn’t be directly reaching out and acting on behalf of the Tenant for matters during the tenancy. The Landlord stated they were never properly given any sort of written documentation showing the Tenant’s advocate had authority to act as an agent, which caused the Landlord to be cautious about communicating with the advocate.

The Landlord stated that another issue the parties disagreed on was the Landlord’s use of cameras on the property. The Landlord stated that they have had cameras installed on the property since at least 2018, well before this tenancy started. The Landlord stated that they have one camera in the backyard, mounted on a rear fence, which is set up to capture the whole yard. The Landlord explained that although this camera captures the entrance to the rental unit, it is not set to record activity in her area. The Landlord provided a letter, screenshot, and written explanation as to the different zones

the camera is set to record. The Landlord stated that this is not a new camera, despite what the Tenant is asserting. They further explained that with this particular camera, he has to take it down and charge it once every few weeks, and they feel the Tenant is misrepresenting this to make it seem like the Landlord installed the camera part way through the tenancy to track her. The Landlord stated that the camera is only there for general security of common areas.

The Landlord acknowledged that he installed an infrared camera on their portion of the deck, which overlooks the Tenant's entrance sometime in early February. The Landlord stated that the intent of this was not to inflame the situation, but for their own security of their personal area in the back yard, not to record the Tenant in her area. The Landlord stated that he removed this camera several days later as it was not working very well.

The Landlord stated that he was fearful of the Tenant's increasing hostility, which is why he put up the infrared camera in the back deck area. The Landlord asserts he and his wife have had crippling anxiety and health issues from this tenancy, and the stress brought on by all the litigation. The Landlord stated that the Tenant brought another individual over to some of the inspections of the rental unit, and he would stick his middle finger up as he walked by the window. The Landlord also stated that this same individual showed up at the end of the tenancy (for the move-out inspection) and yelled obscenities at the Landlord. The Landlord stated that this individual was yelling "I will destroy you", and "get the [expletive] out here". The Landlord stated he was locked in his house, afraid to come out, when the Tenant and her obnoxious witness attended the rental unit on the final day of the tenancy.

The Landlord stated that, sometime in April, the Tenant took several photos of the Landlord's portion of the property, into windows, and on areas that were not common to both units. The Tenant stated she was doing this because she was trying to document the condition of the house, and so that she could mitigate any future litigation against her. The Landlord also stated that the Tenant's friend, smashed his camera and broke it before he left on the final day of the tenancy, although no evidence of this was provided.

The Landlord explained that around April 20, 2021, he proposed an alternative for the move-out inspection given the increasing hostility, which had been scheduled for 6pm on April 30, 2021. The Landlord proposed a virtual move-out inspection, whereby the parties could take photos individually, and each complete a move-out report, and then compare notes/perspectives. The Tenant responded by letter on April 26, 2021, stating that she is not comfortable doing it virtually, given the accusations of damage thus far. The Tenant denied ever being aggressive or acting threatening to the Landlord, so she

feels the Landlord's request was unfounded. The Tenant denies that her guests ever made any aggressive or rude gestures, as the Landlord has asserted. The Tenant stated she wished to conduct the move out inspection, as planned, on April 30, 2021, in person, with her witness.

Following this, the Landlord sent the Tenant's security deposit back at 5 pm on April 30, 2021, as he chose to forfeit the deposit, rather than have to do the condition inspection with the Tenant, in person. The Tenant stated she did not get the deposit or the email regarding the Landlord forfeiting the deposit before she showed up at 6pm with her friend and witness.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 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.

In this instance, the burden of proof is on the Tenant to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Landlord. Once that has been established, the Tenant must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did everything possible to minimize the damage or losses that were incurred.

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.

Loss of Quiet Enjoyment

Section 28 of the Act, states that a Tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the Landlord's right to enter the rental unit in accordance with section 29;
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

I turn to the following two Residential Tenancy Branch Policy Guidelines:

The Residential Tenancy Branch Policy Guideline #16
(Compensation for Damage or Loss)

Damage or loss is not limited to physical property only, but also includes less tangible impacts such as:

- *Loss of access to any part of the residential property provided under a tenancy agreement;*
- *Loss of a service or facility provided under a tenancy agreement;*
- **Loss of quiet enjoyment;**
- *Loss of rental income that was to be received under a tenancy agreement and costs associated; and,*
- *Damage to a person, including both physical and mental*

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due.

The Residential Tenancy Branch Policy Guideline # 6
(Entitlement to Quiet Enjoyment)

A Landlord is obligated to ensure that the Tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises.

I have reviewed the testimony and evidence presented. It is apparent that, shortly after the Tenant moved in, issues began to arise. The Landlords were initially concerned with what they believed were suspicious odours coming from the rental unit, and suspected drug use. Although, I note there is no evidence to support any drug use or illegal

activity. Shortly thereafter, the parties had some negative interactions regarding some damaged house siding that the Landlord discovered after the Tenant had sold some furniture to a third party. I note there is no direct evidence supporting that the Tenant caused this damage to the siding, although it is suspicious that this damage was discovered right around the time she was selling some furniture. This appears to have added to some of the underlying tension already forming as a result of previous interactions. The issues continued to escalate in December and January, when there was an issue with an electrical switch in the suite. There was increasingly tense communication between the parties, as the Landlords and the Tenant tried to find an acceptable time for the electrical switch to be fixed, and disagreed over who should be doing the repair. Alongside this, there was an illness, in a period of time when COVID was a legitimate concern, which contributed to cancelled and rescheduled repair visits, and added to frustrations.

In and around this time, the Tenant requested all communication to be in writing, and she denied the Landlord's attempts to discuss in person, to try and smooth things over. Again, this further escalated the conflict and both parties became increasingly cautious and suspicious of the other. The Landlord scheduled inspections, starting in January, as he was concerned over what the Tenant could do to the rental unit. The relationship significantly degraded after the Landlord attended the rental unit on or around January 17, 2021, and the Tenant told the Landlord he was not permitted to inspect the plumbing under the sink, or to look in the related cabinets. In this case, given the increasing hostility and loss of trust, I find the Landlord's request for a monthly inspection, starting in January is not unreasonable, or contrary to the Act. I do not find the Tenant had a right under the Act to prevent the Landlord from inspecting plumbing under the kitchen or bathroom sinks. I accept that the Tenant telling the Landlord he was not allowed to look under the sink would have further fuelled concern, mistrust, and suspicion.

Also, I note the Tenant attempted several times in early 2021 to try and get the Landlord to stop requesting to meet in person, and to discuss verbally, and it appears the Landlord was initially resistant to this, as he saw it as a way to mitigate the rising conflict. Although I accept this issue would have caused the Tenant concern, as she wished to communicate in writing, rather than in person, I do not find the Landlord was under any obligation, under the Act, to only communicate in writing.

The Landlords also took issue with the Tenant's pet lizard, sometime in January, which appears to have been initially permitted and not an issue until conflict started occurring. I do not find it is fair or reasonable to bring this up as an issue, given it was a non-issue

for many months, and only appears to have become a problem when other issues started to arise. That being said, I am not satisfied this would have had a material impact on any quiet enjoyment of the rental unit.

Alongside all of this, the Tenant noticed that the Landlords had installed a video camera outside her entrance. A photo of this camera shows it is resting on the Landlords' deck, pointing towards the Tenant's area. Although the Landlords stated that this was placed there as there was increasing concern over their safety and the security of the rental property, I find the placement, and direction of this camera was provocative, and breached section 28(a) of the Act, which states the Tenant is entitled to "reasonable privacy". While I appreciate there was increasing hostility, I find the placement and direction of the camera was unreasonable, given the totality of the situation. I accept that this would have caused a significant interference and unreasonable disturbance for while it was installed. That being said, I note this camera was only present for a few days.

With respect to the other camera on the back fence, I note the Tenant states it was installed around February 10, 2021, after the Landlord removed the one previously noted that was directly looking at her unit. The Landlord stated that the camera on the back fence was always there, and has been since 2018. The Landlord stated that any photo showing that the camera was not there must have been taken when he had it taken down to charge the battery on it. The Landlord stated that this camera on the back fence is present for security of the overall property and the common areas. Having reviewed this matter, I find the Tenant has not sufficiently established that this camera along the back fence was not present all along. As an aside, I note the Tenant was aware of a camera on the front of the house as well at the start of the tenancy and there is no evidence she took issue with this, or any other camera, before the conflict started. I note the Landlord provided an explanation and screenshot showing that this camera on the rear fence was not set to record any of the activity near the Tenant's area. This point is difficult to confirm, but in any event, the Tenant has not sufficiently shown that this rear fence camera was new, or that its placement was preventing her from "reasonable privacy".

Following another inspection on or around February 13, 2021, the Landlord noted that there were several items hung on walls and the ceiling that they believed contravened the tenancy agreement. More specifically, the Landlord pointed to the photos in this inspection report to show that the Tenant had installed/screwed a hook into the ceiling to hang a ceiling light, and several shelves and larger pictures were mounted. Although the Landlord believes the Tenant used "wall anchors" for the shelves and the pictures, I

find there is insufficient evidence that the Tenant used screws or wall anchors for those items. That being said, I find it more likely than not that the Tenant used a screw or anchor to hang the ceiling light over her table, as this light is suspended from the drywall ceiling from a single fixed point. I note this was something the Tenant agreed not to do under the tenancy agreement. Policy Guideline #1 states that:

Nail Holes:

- 1. Most tenants will put up pictures in their unit. The landlord may set rules as to how this can be done e.g. no adhesive hangers or only picture hook nails may be used. If the tenant follows the landlord's reasonable instructions for hanging and removing pictures/mirrors/wall hangings/ceiling hooks, it is not considered damage and he or she is not responsible for filling the holes or the cost of filling the holes.*

I note that the Tenancy Agreement, specifies that only “minor” holes for the hanging of pictures and decorations is allowable, and that any drilled holes or wall anchors may not be done without the Landlord’s approval. I find it more likely than not that the Tenant violated this term of the tenancy agreement, and that it was not unreasonable for the Landlord to take issue with this. Unfortunately, this matter further escalated the conflict, as further inspections and demands followed in an increasingly tense manner.

Regarding the other inspections that occurred in March and April, I note the Landlord has stated that the Tenant’s witness and friend was rude and aggressive. However, I find there is insufficient evidence to support that this occurred.

I note the parties mutually agreed to end the tenancy around March 20, 2021, and a copy of this signed mutual agreement was provided into evidence. The parties agreed to end the tenancy effective April 30, 2021. However, despite signing the mutual agreement, the parties continued to disagree and debate tenancy related matters until the end of the tenancy, including garbage disposal, further concerns about the Tenant taking photos of the Landlord’s private portion of their house, alleged hostility towards the Landlord by one of the Tenant’s guests.

Due to all the conflict, the Landlord attempted to cancel the move-out inspection, and do it virtually, despite the Tenant’s request to perform it more traditionally, and in accordance with the Act (in person). There appears to be both disagreement on the move-out inspection regarding whether it be done virtually or in person, and also miscommunication, as the Tenant may not have received the Landlords’ written texts/emails about the last minute changes to the inspection. Eventually, the Landlord just returned the deposit, via email, a matter of minutes before the inspection was to

occur, in an attempt to mitigate any further issues. However, it appears this communication came in too late, and the Tenant was already on her way to perform the move-out inspection.

I have reviewed the testimony and evidence, overall. The tenancy appears to have started out on normal footing. However, the situation escalated steadily and consistently, over a period of months, to a point where even the simplest of issues were contentious and fraught with conflict. I note the bulk of the Tenant's claim is for loss of quiet enjoyment for the last 3.5 months of the tenancy. The Tenant is seeking \$4,200.00 which is a 100% rent reduction for the period of mid-January through till the end of April, which is when the tenancy ended. I acknowledge that the Tenant was not happy with the tenancy, the hostility, or the dysfunction. However, overall, I am not satisfied that the Tenant has sufficiently demonstrated that the Landlord breached section 28 of the Act, except for the occasion where the Landlords aggressively placed a new camera pointing directly at the Tenant's space. I do not find the Tenant's claim for 100% rent reduction for loss of quiet enjoyment for 3.5 months is reasonable. On some occasions, the Landlord could have done more to prevent the degradation of the relationship and the tenancy. However, I find the Tenant also contributed to some of the tension and conflict at certain points. Neither party is solely responsible for the conflict and the dysfunction.

Regarding the incident where the Landlords breached section 28(a) of the Act by overtly placing a surveillance camera near the Tenant's entrance, I find the Tenant is entitled to some compensation, due to her loss of privacy. However, I note this period of time was relatively short lived, and was only a few days.

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

In this case, I award a nominal award to the Tenant in the amount of \$250.00 for issue with the camera on the deck, as it would have likely caused significant stress in and around those few days. The remainder of the Tenant's application for loss of quiet enjoyment is dismissed, without leave.

The Tenant is also seeking moving and cleaning costs in the amount of \$610.00, because she feels she had no other choice but to move out due to the Landlord's behaviour and the overall conflict, and loss of privacy. However, I am not satisfied the situation was such that the Tenant's only option was to move out, and that it was caused by the Landlords' behaviour. I find both parties likely contributed, to some degree, to the nature and extent of the conflict; both parties came to a mutual agreement to end the tenancy in March, effective the end of April. Neither party was required to come to a mutual agreement on this matter, and it appears both parties were unhappy with the situation and chose to end the tenancy. Overall, I am not satisfied the Tenant has sufficiently demonstrated that she is entitled to these amounts based on the Landlord's breaches of the Act or the tenancy agreement. This item is dismissed, in full, without leave.

Conclusion

The Tenant is granted a monetary order pursuant to Section 67 in the amount of **\$250.00**. This order must be served on the Landlords. If the Landlords fail to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 26, 2022

Residential Tenancy Branch