DECISION

Introduction

This hearing was reconvened under the *Residential Tenancy Act* (The ***Act***) in response to cross applications from the parties.

The Tenants filed their application on February 1, 2025, seeking:

- Cancelation of the Landlord's 10-Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*.
- An order from the director to suspend or set conditions on the Landlord's right to enter the rental unit or site, pursuant to section 70 of the *Act*.
- An order for compliance from the Director pursuant to section 62 of the *Act*.

The Landlord filed their application on February 5, 2025, seeking:

- An order of possession pursuant to sections 46 and 55 of the *Act*.
- A monetary order for unpaid rent pursuant to section 67 of the *Act*.
- Authorization to retain the Tenants' security deposit, pursuant to section 38 of the *Act*.
- Authorization to recover the filing fee from the Tenants, pursuant to section 72 of the *Act*.

This decision must be read in conjunction with my interim decision, dated February 26, 2025 (the **Interim Decision**). During the previous hearing, dated February 26, 2025 (hereinafter referred to as the **First Hearing**), the parties indicated their intention to settle their dispute. The First Hearing was adjourned. In the Interim Decision, I stated:

> In this case, I find it appropriate to adjourn the matter to **Thursday, March 6, 2025, at 1:00 PM**, to provide the parties with an opportunity to engage in further settlement negotiations, as was their wish at the hearing.

AT and RP attended the First Hearing for the Landlord, as agents. Tenant EK attended the First Hearing for the Tenants.

Neither tenant attended the reconvened hearing. RP attended the reconvened hearing for the Landlord.

Service of Records

In the Interim Decision, with respect to service, I found:

- The Landlord's agents acknowledged receipt of the Tenants' application and documentary evidence, by pre-agreed email, pursuant to section 43 of the *Residential Tenancy Regulation* (the ***Regulation***).

- EK acknowledged receipt of the Landlord's application and documentary evidence by pre-agreed email, in accordance with section 43 of the Regulation.

- I find, pursuant to section 44 of the *Regulation*, that the Landlord's agent(s) served the Landlord's application and documentary evidence to tenant AG, by pre-agreed email, in accordance with section 43 of the *Regulation*, on February 9, 2025, the third day after the email was sent.

Preliminary Matter – Amendment Request

At the reconvened hearing, RP testified that the Tenants failed to pay their March 2025 rent and requested that I consider this nonpayment in my decision.

Rule 7.12 of the Residential Tenancy Branch's *Rules of Procedure* states that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I grant the Landlord's request for amendment, because the disputes filed by the parties are in relation to the Tenants' failure to pay rent, and the circumstances raised by the Landlord's agent at the reconvened hearing could reasonably be anticipated by the Tenants.

Background Facts and Evidence

I have reviewed all evidence, including the parties' testimonies, but I will refer only to what I find relevant to my decision.

At the First Hearing, the parties agreed that:

- This tenancy began in August 2024.
- On August 20, 2024, the parties signed a written tenancy agreement, and its amendments, including a document titled "AMENDMENT of Lease Contract dated August 15, 2024, between [the Landlord and the Tenants]" (hereinafter referred to as the **Tenancy Agreement** and the **Monthly Rent Amendment Form**, respectively).
- On August 20, 2024, the Tenants signed a document titled "Rental Agreement Addition" (hereinafter referred to as the **Rental Agreement Addition Form**).

- On January 27, 2025, the Tenants received a 10-Day Notice for Unpaid Rent, signed and dated by an agent of the Landlord on January 27, 2025, effective February 6, 2025 (the **Notice**).
- The Notice was attached to the Rental Unit's door by an agent of the Landlord (the term "Rental Unit" is defined on the cover page of my decision).

At the First Hearing, EK testified that:

- After signing the Tenancy Agreement and its amendments, they never received a copy from the Landlord.
- They never requested a copy of the Tenancy Agreement and its amendments from the Landlord's agent(s), notwithstanding the fact that they were "looking for a copy for a long time" and notwithstanding the fact that RP was referencing various terms of the Tenancy Agreement and its amendments in December 2024 in their correspondence with EK.
- They did not request a copy from the Landlord, because they "trusted him".
- The Tenants received copies of the Tenancy Agreement and its amendments as part of these proceedings.

In response, RP testified that they provided a copy of the Tenancy Agreement and all amendment forms, signed by the Tenants, to EK, in person, on August 27, 2024 (as indicated in their notes).

The Landlord's agent(s) submitted a copy of the Tenancy Agreement. Term "3." of the Tenancy Agreement states that the monthly rent is $2,500.00, due on the first day of every month.

At the First Hearing, EK testified that the monthly rent is $2,200.00, due on the first day of every month, but in December 2024, following a conversation with RP on the phone, they paid $2,300.00 to the Landlord. EK testified that RP informed them that the monthly rent is increased by $100.00 in December 2024.

In response, RP testified that:

- On August 9, 2024, the Tenants applied to rent another unit in the building in which the Rental Unit is in (the **Other Unit**).
- On August 12, 2024, the Landlord's agent(s) approved the Tenants, by email (the **Landlord's Approval Email**)
- In the Landlord's Approval Email, RP informed the Tenant about the amount of deposit payable to secure the Other Unit.
- In the Landlord's Approval Email, RP instructed the Tenant to make payments immediately and to attend the building in which the Other Unit and the Rental Unit are in, the next day.
- By the end of business day, on Friday, August 16, 2024, the Tenants still had not made any payments or attended the building or contacted the Landlord's agents.

- The Landlord's agent(s) believed the Tenants had moved on and they rented the Other Unit to a third party.
- On Monday, August 19, 2024, upon returning to work, RP saw a $1,000.00 e-transfer made by EK to the Landlord at 6:13 pm on August 16, 2024.
- RP contacted EK and informed EK that the Other Unit is no longer available, and it was rented to a third party.
- RP asked EK if they are interested in the Rental Unit and EK informed them that they are, and the parties scheduled a meeting for August 19, 2024.
- The Tenants did not attend the meeting on August 19, 2024.
- On August 20, 2024, the Tenants attended the building in which the Rental Unit is in, and the parties discussed the Rental Unit, the fact that it is a better and more expensive unit (a corner unit) compared to the Other Unit, and the fact that the monthly rent is $2,500.00, which is higher than the Other Unit.
- The Landlord agreed to provide the Tenant a discount in the initial months of the tenancy, as set out in the Monthly Rent Amendment Form.

The Tenant submitted a copy of the Landlord's Approval Email, which I reviewed during and after the hearings. The Landlord's Approval Email is dated August 12, 2024, it was sent by RP to EK, and it includes the following statements by RP:

- "Hello [EK], As I mentioned on the phone, you have been approved! Please send the security deposit now ($1,100) by e-transfer."
- "You will also need to bring the following when you and your wife come to sign the lease tomorrow at 1: $1,206 rent Aug 15- Aug 31 ($2,200 / 31 days * 17 days) $200 move-in fee $2,200 rent September $3,606"
- "See you tomorrow."

EK agreed that the Tenants met with RP on August 20, 2024, and signed the Tenancy Agreement with respect to the Rental Unit. EK further agreed that RP informed them on August 20, 2024, that the Other Unit is no longer available, but the Rental Unit is.

EK testified that RP "explained the documents" to them, but they did not fully understand everything.

EK testified that RP informed them that the Rental Unit is a "corner unit" and that the "rent will be increased $100.00 every three months".

EK testified that they recall signing the Monthly Rent Amendment Form on August 20, 2024.

AT testified that on August 19, 2024, on the phone, the Landlord's agent(s) informed EK that the Other Unit was given to another individual, because the Tenants never abided by the conditions of the Landlord's Approval Email and the Landlord's agent(s) believed the Tenants had lost interest in the Other Unit. AT testified that the Landlord's agent(s), on the phone, informed the Tenant about the Rental Unit, the fact that it was more expensive, and the reason why it was more expensive.

With respect to the Tenants' $2,300.00 rent payment in December 2024, RP testified that:

- On December 2, 2024, the Tenants paid $1,000.00 to the Landlord, by e-transfer.
- "Out of courtesy", RP called EK and reminded them of their obligation to pay rent, which in December 2024, pursuant to the parties' agreement, was $2,300.00.
- On December 19, 2024, without "pushback", the Tenants paid the balance of the $2,300.00 December rent.

RP referred to the Monthly Rent Amendment Form, which I reviewed during and after the hearings. In the Monthly Rent Amendment Form, I can see the following statement:

> This is to acknowledge that the amount due under the Lease Contract between the above parties will be discounted from $2,500 to $2,200 for the months of August 15 2024 through November 2024, and from $2,500 to $2,300 for the months of December 2024 to February 2025, and from $2,500 to $2,400 for the months of March 2025 to May 2025, provided that the rent for those months are paid on time. The rate of $2,500 will be for June 2025 to August 2025.

With respect to the amount of money paid by the Tenants to the Landlord at the start of the tenancy, the parties agreed that the Tenants paid $4,360.00 to the Landlord between August 16, 2024, and August 21, 2024, in consideration for the following:

- $1,250.00 as security deposit.
- $200.00 move-in fee.
- $710.00 for pro-rated rent in the month of August 2024 (August 20, 2024, to August 31, 2024).
- $2,200.00 for rent in the month of September 2024.

In their application, the Tenants stated that (copied verbatim from the Tenants' application): "I want the rent to paused until heat bill must paid by the landlord per our agreement."

At the First Hearing, with respect to utilities, EK testified that they "did not see the part about utilities in the [Tenancy Agreement]". EK further testified that:

- They "thought" that the Rental Unit's heating system would function with gas, not electricity.
- They recall seeing statements from the Landlord, in advertisements, that "hydro is extra", but they did not know what hydro was.

In response, with respect to utilities, RP testified that:

- On August 20, 2024, they spent an hour with the Tenants and explained the Tenancy Agreement and its various amendment forms to the Tenants.
- In the Tenancy Agreement, under term "3." neither electricity is marked as included nor heat.
- In the Landlord's advertisements, hydro is marked as extra.

- In the Rental Agreement Addition Form, the Landlord included the statement “the tenant(s) are responsible to pay all bills such as but not limited to BC Hydro, Telus, Cable vision, etc. except for those specifically included in the rental agreement such as monthly maintenance fees for which the landlord is responsible”.
- They verbally informed EK that hydro is extra and EK did not ask what hydro was.

The Tenant submitted a copy of an advertisement for a unit in the building in which the Rental Unit is in. In the advertisement, I can clearly see the following statement from the Landlord: “Electric baseboard heating throughout”.

On page two of the Notice, the ground for ending the tenancy is indicated as unpaid rent in the month of January 2025, in the amount of $1,350.00.

At the First Hearing, EK, with respect to unpaid rent, testified that:

- In January 2025, they were late with paying their rent, so they asked RP “to put a $50.00 penalty on it”.
- The Tenants only paid $1,000.00 on January 24, 2025.
- The Tenants did not pay their February 2025 rent.

The Landlord’s agents testified that they believe there is a clause in the Tenancy Agreement and/or its amendments regarding penalties on late payment of rent, but they did not identify where the purported clause is located.

EK testified that they did not pay their January 2025 rent, in full, nor their February 2025 rent, in full, because they were advised by their acquaintance that they should withhold rent considering the Landlord’s rent increases.

At the reconvened hearing, with respect to unpaid rent, RP provided the following unopposed and affirmed testimony:

- On February 26, 2025, after the First Hearing, the Tenants paid the Landlord $1,000.00, by e-transfer.
- On February 27, 2025, the Tenants paid the Landlord $1,000.00, by e-transfer.
- EK informed them that they will pay the remaining balance on February 28, 2025, but they did not, and they stopped corresponding with the Landlord’s agent(s).
- The Tenants failed to pay any amounts for March 2025.

In their application, the Landlord is seeking an Order of Possession pursuant to the Notice, a Monetary Order for unpaid rent, as well as a Monetary Order for the difference between $2,500.00 (undiscounted rent) and the discounted monthly rent outlined in the Monthly Rent Amendment Form.

At the First Hearing, RP referred to the below-underlined sentence, in the Monthly Rent Amendment Form, as authority to seek compensation for the difference between the discounted rent and the full $2,500.00 rent (underlining mine):

> This is to acknowledge that the amount due under the Lease Contract between the above parties will be discounted from $2,500 to $2,200 for the months of August 15 2024 through November 2024, and from $2,500 to $2,300 for the months of December 2024 to February 2025, and from $2,500 to $2,400 for the months of March 2025 to May 2025, provided that the rent for those months are paid on time. The rate of $2,500 will be for June 2025 to August 2025.

The Tenant testified that on August 20, 2024, the parties never discussed any provision where the Tenants would need to pay back the discounted rent, if they were late in paying their monthly rent.

I asked RP whether, prior to filing their application, they ever sought payment of the discounted amounts and RP testified that they did not. I asked RP whether in December 2024 they asked the Tenants to pay the difference between $2,500.00 (non-discounted rent) and $2,300.00 (the discounted rent), considering the Tenants' late payment, and they testified that they never did.

Analysis

EK acknowledged receipt of the Landlord's Notice, which I find was served to them on January 27, 2025, in accordance with section 88 of the *Act*.

Section 46 of the *Act* states that upon receipt of a 10 Day Notice, the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Branch.

The Tenants disputed the Notice on February 1, 2025, in time. The Landlord therefore has the burden of proof in this case to establish that the Notice was given for a valid reason. The standard of proof in this tribunal is on a balance of probabilities, meaning it is more likely than not that the facts occurred as claimed.

At the First Hearing and in their application, the Tenants' position was that the Landlord had increased their monthly rent, without the Tenants' consent. For the reasons that follow, I find the Landlord never increased the Tenants' rent and instead agreed to discount the monthly rent of $2,500.00 in accordance with the terms the parties agreed to, in writing, in the Rental Agreement Addition Form.

The Tenancy Agreement clearly stipulates that the monthly rent for this tenancy is $2,500.00. Based on the parties' testimonies, I find it more likely than not that the Landlord agreed to discount the Tenants' monthly rent on a temporary basis, because the Tenants were initially considering the Other Unit, which demanded a lower rent.

I further find, with respect to the Other Unit, the parties never made an agreement. First, the Tenants never abided by the terms set out in the Landlord's Approval Email (by attending a meeting on August 13, 2024, for the purposes of signing a tenancy agreement, and by paying the amounts outlined in the Landlord's Approval Email).

EK agreed that on August 20, 2024, RP informed them that the Other Unit is no longer available and that they described the nature of the Rental Unit and its higher rent. Consequently, I find the Tenants were fully aware, at the time of signing the Tenancy Agreement, that they were forming an agreement with respect to the Rental Unit, not the Other Unit.

It is plausible that my findings, above, with respect to the monthly rent, are incorrect and the monthly rent in this case was increased. If that is the correct analysis, then I make the following alternative finding: the parties agreed to the rent increases set out in the Monthly Rent Amendment Form, in writing, at the start of the tenancy, such that the timing and notice requirements of section 42 of the *Act* do not apply to the facts of this case.

A rent increase that was agreed to in writing at the outset of a fixed term tenancy agreement does not attract the timing or notice requirements of section 42 of the *Act* and it is ought to be treated differently than a rent increase unilaterally imposed by a landlord at the end of a fixed term tenancy or in the course of an ongoing month to month tenancy.

At the First Hearing, EK testified that they recall signing the Monthly Rent Amendment Form on August 20, 2024, and that, on the same date, RP informed them that the Rental Unit is a "corner unit" and that the "rent will be increased $100.00 every three months". Therefore, even if they never received a copy of the Tenancy Agreement at the start of this tenancy, the Tenants were fully aware of the terms set out in the Monthly Rent Amendment Form.

My alternative findings, above, are in keeping with Madam Justice J. Hughes' findings in *Shuster v Prompton Real Estate Services Inc*, 2023 BCSC 1605 [*Shuster*]. At paragraph 35 of their Oral Reasons for Judgment, Justice Hughes states (underlining mine, for emphasis):

> Section 14(2) provides that a tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and the tenant agree to the amendment. However, s. 14(3) states that the requirement for agreement does not apply to a rent increase in accordance with Part 3 of the *RTA*. The *RTA* thus draws a distinction between mutually agreed upon contractual terms in a tenancy agreement regarding rent payable, and unilateral rent increases by a landlord in the course of an ongoing tenancy that are not mutually agreed to in writing and thus engage Part 3 of the *RTA*.

Consequently, the timing and notice requirements of the *Act* are engaged where a landlord imposes a rent increase after the date that the existing rent was established. In this case, the existing rent for each relevant period of tenancy was established in the Tenancy Agreement and the Monthly Rent Amendment Form.

I find the monthly rent in this tenancy was as follows:

- $2,200.00, until November 2024.
- $2,300.00, from December 1, 2024, to February 1, 2025.
- $2,400.00, from March 1, 2025, to May 1, 2025.
- $2,500.00 from June 1, 2025, onwards, subject to the timing and notice provisions of the *Act*.

The parties provided opposing testimonies with respect to whether the Landlord's agent(s) provided a copy of the Tenancy Agreement to the Tenants, at the start of this tenancy. RP testified that they provided EK with a copy of the Tenancy Agreement and its amendments, in person, on August 27, 2024. EK testified that they only received a copy as part of these proceedings. To the extent that this is relevant, find the Tenants were in receipt of the Tenancy Agreement and its amendments on August 27, 2024. In making this finding, I have questioned the credibility of EK's testimony and favoured RP's testimony on the matter. At paragraph five of R v Parent, 2000 BCPC 0011, the Honourable Judge A.E. Rounthwaite set out some factors that courts have traditionally considered in assessing a parties' credibility:

1. the witness' ability to observe the events, record them in memory, recall and describe them accurately,
2. the external consistency of the evidence. Is the testimony consistent with other, independent evidence, which is accepted?
3. its internal consistency. Does the witness' evidence change during direct examination and cross-examination?
4. the existence of prior inconsistent statements or previous occasions on which the witness has been untruthful.
5. the "sense" of the evidence. When weighed with common sense, does it seem impossible or unlikely? Or does it "make sense"?
6. motives to lie or mislead the court: bias, prejudice, or advantage. To consider the obvious possible motive of every accused person to avoid conviction would place an accused at an unfair disadvantage. As a result, I do not consider that possible motive when assessing an accused's testimony.
7. the attitude and demeanour of the witness. Are they evasive or forthcoming, belligerent, co-operative, defensive or neutral? In assessing demeanour a judge should consider all possible explanations for the witness' attitude, and be sensitive to individual and cultural factors, which may affect demeanour. Because of the danger of misinterpreting demeanour, I would not rely on this factor alone.

In this case, in accepting RP's testimony that they provided copies of the Tenancy Agreement and its amendments to EK, and in rejecting EK's testimony that they were never provided with copies, I have mainly relied on *Parent* factors two and five. At the hearing, EK testified they were searching for copies of the aforementioned records throughout the term of the tenancy, but they never requested a copy from the Landlord's agent(s), even when RP was referring to its specific terms during the month of December 2024, and even when the parties disagreed about whether utilities were the responsibility of the Tenants.

Irrespective of the exact amount of rent payable in January 2025, based on EK's own testimony, the Tenants only paid $1,000.00 in the month of January 2025. This is not a

case where the Tenants paid $2,200.00, believing that their monthly rent was only $2,200.00, not $2,300.00. The Tenants paid $2,300.00 in the month of December 2024 and only paid $1,000.00 in the month of January 2025.

I find the Notice was given for a valid reason, because the Tenants contravened section 26 of the *Act*, by failing to pay their full rent in the month of January 2025, without a valid reason, and they further failed to pay their full rent within five days of receiving the Notice.

Section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement, unless the tenant has a right under this *Act* to deduct all or a portion of the rent.

At the hearing, EK never provided a valid reason for their failure to pay rent.

Eviction notices must abide by the form and content requirements of section 52 of the *Act*. I have reviewed the Notice, and I find the Notice is compliant. The Notice was signed and dated by RP, it is in the approved form, it includes the Rental Unit's address, the grounds for ending the tenancy and the effective date of the Notice.

For the above reasons, I find that the Notice is valid. I dismiss the Tenants' application to cancel the Notice, without leave to reapply. I grant the Landlords' application for an Order of Possession, based on the Notice and section 55 of the *Act*. Section 55(1) of the *Act* states that if a tenant applies to dispute a notice to end tenancy, the director must grant the landlord an order of possession if during the dispute resolution proceedings, the tenant's application is dismissed, or the landlord's notice is upheld.

Section 55(3) of the *Act* states that the director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

At the First Hearing, EK did not make submissions respecting the date of the Order of Possession, if I were to grant the Landlord's application. Neither tenant attended the second hearing. I have reviewed Policy Guideline 54. I note that between the First Hearing and the reconvened hearing, the Tenants paid the balance of their rent for the month of January 2025, but the bulk of February 2025 rent, and all of March 2025 was unpaid. This tenancy is not long term and there is no evidence before me that the Tenants would require a lengthy period of time to move out of the Rental Unit.

In the absence of any evidence for why the Tenants would be unable to vacate the Rental Unit in a short period of time, pursuant to section 55 of the *Act*, **I order this tenancy to end seven (7) days after service of the attached Order of Possession to the Tenants**.

The Landlord is seeking compensation for unpaid rent, late fee in the amount of $50.00 charged for the month of January 2025, and “discount lost” for the Tenants’ late payments of rent.

Section 7 of the *Act* states that if a party does not comply with the *Act*, the *Regulations* or the tenancy agreement, the non-complying party must compensate the other party for damage or loss that results and that the party who claims compensation must minimize the losses.

Section 67 of the *Act* allows a monetary order to be awarded for damage or loss when a party does not comply with the *Act*. 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.

The Residential Tenancy Branch Policy Guideline 16 outlines the criteria to be applied when determining whether compensation for a breach of the *Act* or the tenancy agreement is due. It states that the applicant must prove that (1) the respondent failed to comply with the *Act* or the tenancy agreement; (2) the applicant suffered a loss resulting from the respondent’s noncompliance; (3) the applicant proves the amount of the loss; and (4) that they reasonably minimized the losses suffered.

Section 7(1)(d) of the *Regulations* states that a landlord may not charge more than $25.00 for late payment of rent. Furthermore, I find the Landlord’s agent(s) failed to prove that the Tenancy Agreement and its amendments provide for late fees. At the hearing, EK testified that in January 2025, they asked RP to charge them a late fee of $50.00. Section 5(1) of the *Act* states that landlords and tenants may not avoid or contract out of this *Act* or the regulations. Section 5(2) states that any attempt to avoid or contract out of this *Act* or the regulations is of no effect. Consequently, I find the $50.00 penalty to be unenforceable and of no force or effect. I decline to award this amount to the Landlord.

I also decline to award any amount for the difference between $2,500.00 in monthly rent and the discounted rent. RP testified that their authority for claiming this amount is the following sentence included in the Monthly Rent Amendment Form: “provided that the rent for those months are paid on time”.

EK provided unopposed testimony that the parties never explicitly discussed what would happen, *vis a vis* the discounted rent, if the Tenants were late in making payment. In addition, I find the clause highlighted by RP, which was drafted by the Landlord’s agent(s), is vague and does not clearly stipulate what would happen if the Tenants were late. Finally, prior to the filing of both applications and the issuance of the Notice, in the month of December 2024, the Tenants were exceptionally late in paying their rent. RP agreed that they never sought the difference between $2,500.00 and $2,300.00. Based on all the above, I find the parties never discussed what would happen if the Tenants paid their rent late, *vis a vis* the discount provided in the Monthly Rent Amendment Form. The *contra proferentem* doctrine is a legal doctrine that interprets ambiguous

contract terms against the interests of the party who wrote them, which in this case, is the Landlord. In this case, the Tenants' interpretation of the vague clause prevails, and I find the Tenants are not obligated to pay the difference between $2,500.00 and the discounted rent provided for in the Monthly Rent Amendment Form.

I accept RP's unopposed affirmed testimony that the Tenants failed to pay any rent in the month of March 2025, contrary to section 26 of the *Act* and the parties' Tenancy Agreement, which states that monthly rent is due on the first day of every month. I have already found monthly rent in the month of March 2025 is $2,400.00. **Pursuant to section 67 of the *Act* I award the Landlord $2,400.00**.

At the First Hearing, the parties agreed that the Tenants had failed to pay February 2025 rent, in whole, and that the Tenants had only paid $1,000.00 in the month of January 2025. At the reconvened hearing, RP testified that, in the interim, the Tenants made a payment in the amount of $2,000.00, erasing their unpaid rent balance for the month of January 2025. I have already found that the Tenants' monthly rent obligation in the months of January 2025, and February 2025, was $2,300.00. I have also rejected the Landlord's $50.00 late rent claim. Consequently, I find the Tenants paid $700.00 of their February 2025 rent, leaving an unpaid balance of $1,600.00, contrary to section 26 of the *Act*. **Pursuant to section 67 of the *Act* I award the Landlord $1,600.00** for the balance of February 2025.

As the Landlord was mostly successful in their application, **pursuant to section 72 of the *Act*, I award the Landlord their $100.00 filing fee**.

Pursuant to section 72 of the *Act*, I authorize the Landlord to retain the Tenants' $1,250.00 security deposit, in full, plus interest, in the amount of $14.87, calculated from August 16, 2024 (date of payment) to March 7, 2025 (date of my decision).

The above figures and orders are summarized under the conclusion section of my decision.

In their application, the Tenants applied to "suspend or set conditions on the landlord's right to enter the rental unit or site" with the explanation that "I want the rent to paused until heat bill must paid by the landlord per our agreement." They also applied for an order of compliance respecting an unlawful rent increase and because "we have told we are the one who pay heater bill outside our agreement".

Both of the above claims are dismissed, without leave, for the reasons that follow. First, I have found the Landlord did not charge and unlawful rent increase. Second, at the First Hearing, EK testified that they selected the claim for suspension of landlord's right to enter the Rental Unit, by mistake. Third, based on the parties' testimonies at the First Hearing, and the evidence before me, namely the Tenancy Agreement, the copy of the advertisement provided by the Tenants, and the Rental Agreement Addition Form, I find the parties had agreed, at all relevant times, that electricity is the responsibility of the Tenants. EK themselves testified that they recall seeing statements from the Landlord,

in advertisements, that “hydro is extra”. RP testified that during their meeting with the Tenants on August 20, 2024, they informed them that hydro is their responsibility. I find the Tenants’ position that they believed heating would be by gas perplexing, considering they viewed the Rental Unit, which, as the parties agreed, includes baseboard heating elements, something that is clearly outlined in the copy of the advertisement provided by the Tenants as evidence.

Conclusion

The Tenants’ application is dismissed, in its entirety, without leave to reapply.

I grant an Order of Possession to the Landlord effective **seven (7) days after service of the attached Order of Possession to the Tenants**. Should the Tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant the Landlord a Monetary Order in the amount of **$2,835.13** under the following terms:

Monetary Issue	**Granted Amount**
A Monetary Order for unpaid rent in the month of March 2025 (per s. 67 of the *Act*).	$2,400.00
A Monetary Order for unpaid rent in the month of February 2025 (per s. 67 of the *Act*).	$1,600.00
Plus: filing fee (per s. 72 of the *Act*).	$100.00
Less: security deposit and interest (per s. 72 of the *Act*).	-$1,264.87
Total Amount	**$2,835.13**

The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia.

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

Dated: March 7, 2025

Residential Tenancy Branch