



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Introduction

This hearing dealt with the Landlord's February 8, 2025, Application for Dispute Resolution under the Residential Tenancy Act (the "Act") for:

- compensation for damage in the rental unit
- compensation for monetary loss/other money owed
- authorization to retain all/part of the security deposit for compensation
- recovery of the Application filing fee.

The Tenant's March 20, 2025, Application, crossed to the Landlord's Application already in place by that date, concerned the return of the security deposit, and the recovery of their Application filing fee.

The Tenant and the Landlords (hereinafter, the "Landlord") attended the scheduled hearing.

Service of hearing documents and evidence

I find the parties each served their individual hearing documents – importantly, the Notice of Dispute Resolution Proceedings – to the other as required.

I find the parties served their submitted evidence to each other as required.

Because both parties both parties verified that they received evidence from the other, all the evidence they submitted to the Residential Tenancy Branch is on record and I consider any part of it where necessary and relevant.

Issues to be Decided

- a. Is the Landlord entitled to compensation for damage in the rental unit?
- b. Is the Landlord entitled to compensation for monetary loss/other money owed?
- c. Is the Landlord authorized to retain part/all of the security deposit for compensation?
- d. Is the Tenant entitled to the return of the security deposit?
- e. Is the Landlord eligible for recovery of the Application filing fee?
- f. Is the Tenant eligible for recovery of the Application filing fee?

Background and Evidence

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

a. Is the Landlord entitled to compensation for damage in the rental unit?

The Landlord provided a copy of the tenancy agreement they had in place. The tenancy started on August 15, 2018, set for a fixed term ending on August 15, 2019. The tenancy continued on a month-to-month basis past that time. The rent amount was \$2,100 that increased to \$2,216.97 over the course of the tenancy.

The agreement, being of standard format, refers to the *Act* throughout.

The Tenant presented that there was no document completed or signed to record the condition of the rental unit at the start of the tenancy. The Tenant referred to an “informal walkthrough” that occurred on August 15, 2018. The Landlord acknowledged this walkthrough/inspection was not documented. The Landlord stated they at one time had pictures they took at the start of the tenancy; however, these pictures over the years became unavailable.

The Tenant in the hearing recalled there were “no distinct damages” but pictures had shown the kitchen wall was not freshly painted at the start of the tenancy, and had notable prior damage. The Tenant referred to pictures they had taken on their own at

the start of the tenancy, for the purpose of their own design and decoration within the rental unit (not in the evidence).

On September 23, 2024, the Tenant provided their notice to the Landlord that they wanted to end the tenancy. The specified tenancy-end date was December 14, 2024, and in that letter the Tenant provided a forwarding address to the Landlord.

On December 14, the Landlord and Tenant met in the rental unit for another walk-through inspection. The Tenant's final move out from the unit, and return of keys to the Landlord, was on December 15. The Landlord provided a message from the Tenant in which the Tenant acknowledged that the security deposit would be used for issues with the floor. The move-out inspection is not documented in the form of an inspection report.

The Landlord provided a series of photos of the rental unit to show detail and noted the following in the hearing:

- the 2nd bedroom drywall had patching that the Tenant had started, not complete
- track lighting was in place in the bedroom, and its removal necessitated more patching on the walls
- a wall area surrounding the fireplace had incomplete patching on the drywall
- floor damage in the 2nd bedroom – two large darkened spots on the hardwood floor

In the hearing, the Tenant stated that they agreed with the need for more work stemming from this tenancy – this was the track lighting, floor damage in the 2nd bedroom, and work on the walls around the fireplace, even though the Landlord instructed the Tenant to stop their own work on that area.

The Landlord and the Tenant engaged in an ongoing dialogue post-tenancy, primarily via email, about specific issues. This is documented in the Landlord's summary of communication December 14 to February 2. They could not agree on the reimbursements, or the dispensation of the security deposit. The Landlord provided a copy of the parties' emails, the means by which the parties exchanged draft post-tenancy agreements on a settlement amount. The parties appeared to agree on one firm's quote, with the Tenant stating their agreement on January 21 to the Landlord about use of the deposit, as well as paying the balance exceeding the security deposit in full, as shown in the Landlord's evidence. Any agreement remained unsigned by

either party, and the Landlord then brought this Application to the Residential Tenancy Branch concerning the security deposit. By mid-January, the Landlord obtained quotes for work from three estimates for flooring. By late January, the Tenant was asserting their right to double the security deposit amount from the Landlord.

As confirmed in the hearing, the Landlord obtained estimates for certain areas of work in the rental unit, and provided these as alternate amounts on their completed monetary worksheet:

	Description	compensation
	hardwood bedroom floor – pacific coast floors	2,134.03
	hardwood floor bedroom repair – NN	1,534.15
	hardwood floor bedroom repair -- SUNDG	1,409.63
	kitchen floor repair – pacific coast floors	1,597.25
	kitchen floor repair – united floors	2,205.06
	kitchen floor repair – island floor centre	1,669.85
	prep, drywall patching, wall patch – drywall medic	1,953.00

In their evidence, the Landlord presented that the Tenant agreed to proceed with a firm, represented in line 3 above, specific to bedroom floor repairs. The Landlord presented that the Tenant agreed to pay the balance remaining after offsetting the full amount of the security deposit. The record shows the Landlord was attempting to rectify this with the Tenant, requesting \$311.40 as the balance on January 29.

The Tenant cited the age of the flooring in the bedroom, providing that a refinishing job would make the floors in better condition than when they moved into the rental unit. The Tenant pointed to a brochure featuring the sale of the rental unit property (2017) in which floors were not recently refinished. They also cited the Landlord's lack of move-in/move-out inspection to clearly show the condition of the flooring at those times.

On the issue of flooring in the kitchen, the Landlord's pictures show seams between the flooring linoleum pieces lifting, and even tearing. The Landlord obtained three estimates for reflooring in that distinct area on the kitchen floor.

The Tenant estimates this flooring is also 10-12 years old. The Tenant observed that one estimate the Landlord obtained referred to "mid-grade vinyl" and could be repaired

with seam sealer for \$559.13. In the Tenant's estimation, this would return the floor to a livable standard that was in place at the start of the tenancy.

The Tenant also located stock flooring (evidence in an email from January 23) that could be used for this purpose. A subsequent estimate from the same firm provides the amount of \$661.34, with apparent acknowledgement of vinyl material on-site, to be supplied by others.

In sum, the Tenant's response is that the Landlord's quotes represent a betterment of this feature in the kitchen.

The Landlord provided a number of pictures showing the need for work on the drywall. The Tenant had started on this work on their own prior to the tenancy ending; however, the Tenant presented that the Landlord asked them to stop this work. The Tenant also offered to complete this work, post-tenancy.

In the hearing, the Tenant acknowledged the LED strip lighting they installed had caused residual damage when removed.

In their written response, the Tenant also pointed to a number of holes present at the start of the tenancy; however, the move-in condition at the rental unit was not documented.

The Tenant also pointed to an estimate they received for work around the fireplace: \$2998. The Tenant's estimate for other work to be completed on walls is approximately 3.5 hours, making the amount "under \$150."

b. Is the Landlord entitled to compensation for monetary loss/other money owed?

The Landlord claims \$2,216.97 for one-month equivalent of rent income

due to repairs not being completed rental unit can't be occupied by landlord or new tenant until repairs have been completed, plus tenant did not vacate when [they] originally stated.

On this point, the Tenant provided an outline of their attempts at obtaining estimates for work. Thus ran the parties' counter-offers for settlement on work to be completed, with the Landlord and the Tenant not agreeing to a final amount. In summary on the Landlord's claim for rent equivalent, the Tenant noted that the Landlord did not attempt to re-rent the rental unit, with no evidence thereof. The Landlord's plan became to renovate in the rental unit, or sell outright.

c. Is the Landlord authorized to retain the security deposit?

d. Is the Tenant entitled to the return of the security deposit?

The Tenant paid a security deposit amount of \$1,050 on July 27, 2018. As of the date of this hearing, the Landlord retained the full amount of the security deposit. The Tenant's Application concerns the return of the deposit to them.

The Tenant provided a forwarding address to the Landlord at the time they notified the Landlord of their pending move out from the rental unit, by letter on September 24, 2024. The final date of the tenancy was December 15, 2024. As of this final date of the tenancy, interest on the security deposit was \$48.25¹

e. Is the Landlord eligible for recovery of the Application filing fee?

The Landlord paid the Application filing fee amount of \$100 on February 1, 2025.

f. Is the Tenant eligible for recovery of the Application filing fee?

The Tenant paid the Application filing fee amount of \$100 on March 20, 2025.

Analysis

In general, a party that makes an application for compensation against the other party has the burden to prove their claim. This burden of proof is based on a balance of probabilities. An award for compensation is provided for in s. 7 and s. 67 of the *Act*.

To be successful in a claim for compensation, an applicant has the burden to provide sufficient evidence to establish the following four points:

- that a damage or loss exists;

¹

2018 \$1050.00: \$0.00 interest owing (0% rate for 43.29% of year)
2019 \$1050.00: \$0.00 interest owing (0% rate for 100.00% of year)
2020 \$1050.00: \$0.00 interest owing (0% rate for 100.00% of year)
2021 \$1050.00: \$0.00 interest owing (0% rate for 100.00% of year)
2022 \$1050.00: \$0.00 interest owing (0% rate for 100.00% of year)
2023 \$1050.00: \$20.57 interest owing (1.95% rate for 100.00% of year)
2024 \$1061.61: \$27.67 interest owing (2.7% rate for 95.63% of year)

- that a damage/loss results from a violation of the *Act* and/or tenancy agreement;
- the value of the damage or loss; and
- steps taken, if any, to mitigate the damage/loss.

a. *Is the Landlord entitled to compensation for damage in the rental unit?*

The *Act* s. 35 sets out that, at the end of a tenancy, a landlord and a tenant must jointly inspect the condition of the rental unit, and a landlord must complete a report of the rental unit condition.

The *Act* s. 36 provides that a landlord is precluded from claiming against the security deposit where they do not complete a condition inspection report and give a copy of that to a tenant.

I find the parties met on December 14, 2024 to inspect the condition of the rental unit at the end of the tenancy. This was not documented as set out in s. 35 of the *Act*. I find the Landlord provided pictures post-tenancy for this hearing to prove their points about the condition of the rental unit post-tenancy.

Concerning damage more generally in a rental unit, the *Act* s. 32(3) sets out that a tenant must repair damage in the rental unit that was caused by their actions/neglect.

Also, the *Act* s. 37 provides that, when a tenant vacates a rental unit, they must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

I find the parties could not reach an agreement about the dispensation of the security deposit, or compensation for damage of miscellaneous sorts in the rental unit.

I note the *Act* s. 72(2) provides that, for any amount owed from a tenant to a landlord, I may order the amount deducted from any security deposit. Therefore, this is a saving provision in the *Act* for compensation owed to a landlord, regardless of whether the Landlord fulfilled their obligation of offering two inspection opportunities to the Tenant.

I find the Tenant acknowledged there was damage in the rental unit that was beyond what is set out in s. 37 of the *Act*. In the hearing, the Tenant conceded on certain of the points thereof, and proposed amounts for compensation they thought were fair, given

the age of elements in the rental unit, the work they undertook to complete, and the fact that an accurate record of the condition in the rental unit was not documented.

On each piece of compensation for damage in the rental unit, I find as follows:

- Regarding bedroom hardwood floors, I find the Tenant acknowledged there was damage beyond reasonable wear and tear – without consideration of how said damage occurred. I find the Tenant was relatively forthright in attempting to resolve the matter with some form of compensation; however, the parties reached an impasse. Both the Landlord and the Tenant obtained different estimates and expended effort in trying to determine a reasonable amount.

I grant to the Landlord \$550 for compensation, which is approximately one-half of the estimate the Tenant referred to in the hearing. This acknowledges the Tenant's reference to replacement of damaged floor boards (\$250) on the particular firm's invoice, and a portion of the cost of refinishing (\$1,092.50). I find the Tenant presented a rationale for this amount, and a credible account that they verified the amount with the firm who provided the estimate for repair, not replacement. This is the lowest estimate obtained by the parties for this work. I find the Tenant acknowledged the need for compensation on this particular piece via text messages and emails. I find the Tenant agreed to some amount of compensation for this work, thereby accepting that the floors were in a condition not as per the initial state, and beyond wear and tear.

- Regarding the kitchen floors, I find the Tenant obtained an estimate from a firm who confirmed the flooring is "mid-grade vinyl", and I find it more likely than not that the estimates for repair provided by the Landlord are not accurate with regard to the age/condition of the flooring upon the start of this tenancy. The Tenant expended effort to understand what was possible with the flooring, and presented a strong case for a seam sealer. The Tenant also found replacement flooring that could be applied in the kitchen area. I find the March 31 estimate of \$661.34 is reasonable compensation for repair, not floor replacement.
- I find the Tenant also presented a clear rationale for work remaining for drywall damage/patchwork. I find it a reasonable proposition that, given the time and approval from the Landlord, the Tenant could have rectified the issues with drywall/patchwork on their own, apparently being capable of doing so. I grant to the Landlord the amount of the estimate (\$299) around the fireplace. I allow

recovery of a certain part of the other work the Tenant referred to (\$100) for work elsewhere in the rental unit.

By s. 67 of the *Act*, in total for damage in the rental unit, I grant to the Landlord compensation for \$1,610.34.

b. Is the Landlord entitled to compensation for monetary loss/other money owed?

On the Landlord's claim to rental income, I grant no compensation. The Landlord did not present evidence of their efforts at re-renting in the following month, or even an intention to re-rent. I find the Landlord undertook renovations within the rental unit, which in fact precluded them from re-renting. The Landlord was not clear on this intention; I find the evidence shows there was some notion of renovating, or selling the rental unit.

By s. 67 of the *Act*, in total for damage in the rental unit, I grant to the Landlord compensation for \$1,610.34.

c. Is the Landlord authorized to retain the security deposit?

d. Is the Tenant entitled to the return of the security deposit?

The *Act* s. 38 sets out that within 15 days of the later of the tenancy end-date, or the date a landlord receives a tenant's forwarding address in writing, a landlord must repay any deposit with interest, or make an application against a deposit.

The *Act* s. 38(6) provides that if a landlord does not comply with this timeline, they may not make a claim against a deposit, and must pay double any deposit amounts to a tenant.

I find the Tenant's forwarding address was in place with the Landlord on September 24, 2024. I find the tenancy definitively ended on December 15, 2024, and the Tenant's address was with the Landlord well before this date. Therefore, the date in question is December 15, 2024.

The Landlord completed this Application at the Residential Tenancy Branch on February 1, 2025; therefore, I find s. 38(6) applies in this situation, with the date being past the 15-day timeframe set in s. 38 of the *Act*. I double the amount of the security deposit for this reason: the amount is \$2,100.

I calculate the interest on the security deposit amount only, which the Landlord held in trust; therefore, the entire combined deposit amount is \$2,148.25.

Above, I grant the Landlord the amount of \$1,610.34 for damage in the rental unit. The Landlord shall retain this amount from the security deposit total of \$2,148.25, and return the balance to the Tenant.

e. Is the Landlord eligible for recovery of the Application filing fee?

I find the Landlord was successful in this Application, and it was necessary for them to bring this Application to the Residential Tenancy Branch for resolution. For this reason, I grant full recovery of the \$100 Application filing fee.

f. Is the Tenant eligible for recovery of the Application filing fee?

I find the Tenant was not successful in this Application; therefore, I grant no recovery of the Application filing fee to them.

Conclusion

As above, I grant the amount of \$1,610.34 as compensation to the Landlord on their Application.

I grant to the Landlord \$100 for recovery of the Application filing fee. I offset the Tenant's Application filing fee amount of \$50 for this amount. The compensation to the Landlord is thus \$1,710.34.

To the Tenant, I order the return of the balance of the security deposit amount to them, as set out below – this amount is \$437.91.

I grant to the Tenant a Monetary Order in the amount of **\$437.91** under the following terms:

Monetary Issue	Granted Amount
Landlord compensation for damage	\$1,610.34
recovery of the filing fee for this Application	\$100.00
return of security deposit balance	-\$437.91
Total Amount to Tenant	\$437.91

I provide the Tenant with a Monetary Order in the above terms and the Tenant must serve it to the Landlord as soon as possible. Should the Landlord fail to comply with this Monetary Order, the Tenant may file this Monetary Order in the Small Claims Division of the Provincial Court where it will be enforced as an Order of that Court.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: May 15, 2025

Residential Tenancy Branch