

## **DECISION**

### **Introduction**

This hearing dealt with Cross Applications include:

The Landlord's February 17, 2025, Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

The Tenant's March 31, 2025, Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

The Landlord and the Tenant A.K.C. attended the May 5, 2025, teleconference hearing to provide sworn testimony and refer to evidence.

### **Service of Notice and Evidence**

Both parties agreed that they served each other with Notice of their respective claims, and copies of documentary and video evidence in advance of the hearing that occurred before me.

I therefore find that I can use the documentary and video evidence provided by the parties in my Decision making because I am satisfied that they served each other as required by the Act and Rules of Procedure.

## **Preliminary Matters**

The parties agreed that they participated in a previous RTB Dispute on February 12, 2025, and that the RTB issued a Decision and Monetary Order awarding the Tenants with financial compensation from the Landlords regarding an illegal rent increase.

The parties agreed that the Landlord has not yet paid the Tenant.

The monetary award is \$350.00 and was awarded as compensation for an improper rent increase.

I used my discretion under RTB Rule of Procedure 3.19 to provide leave until end of business day May 5, 2025, to provide documentary evidence to the Landlord regarding the RTB 27 Condition Inspection Report provided as evidence by the Landlord.

This document suggests that it was E-Signed by the Tenant and Landlord on May 1, 2024, and February 1, 2025, however, the Tenant disagreed and strongly denied ever signing this document.

I find that the Landlord failed to provide the requested document to RTB. They provided other documents instead which I will not consider in my decision making because they were not specifically requested or permitted to be uploaded as late evidence.

## **Issues to be Decided**

- Is the Landlord entitled to:
  - a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
  - authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
  - authorization to recover the filing fee for this application from the Tenant under section 72 of the Act
- Is the Tenant entitled to:
  - a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act
  - authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

## **Background and Evidence**

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

The residential property is an approximately 30-year-old townhouse that is owned and occupied by the Landlord who purchased the property about 3.5 years prior.

The Tenants occupied the “Master Suite” which is a standalone unit with a kitchenette (sink, fridge, induction cooktop, rangehood) and private bathroom.

The Tenant occupied the rental unit with their husband between May 1, 2024, and February 1, 2025. The Landlord collected a \$1,000.00 security deposit and parties agreed that rent was set at \$1,300.00 by the Landlord when the tenancy ended.

The Landlord stated that they collected a higher security deposit because it helps protect the Landlord at the end of the tenancy because then they have more money on hand.

The parties agreed that the Landlord received the Tenants’ Notice of their forwarding address on February 25, 2025. The Tenant provided proof of tracking by registered mail which confirms that this package was mailed on February 15, 2025.

The Landlord is claiming \$6,143.00 in compensation for assorted damages from the Tenant, including:

- \$3,743.00 As seen in Handyman Estimate
- \$1,200.00 for Handyman time and travel with no documentation
- \$500.00 damage fridge with no proof of costs
- \$200.00 damaged induction stove tops with no proof of costs
- \$400.00 additional wall damage repair
- \$100.00 damaged fan

The Tenant contested the validity of the Landlord’s RTB-27 Condition Inspection Report, testifying that this document was not provided to or signed by the Tenant prior to the Landlord filing for dispute resolution. The Tenant repeatedly testified that the only document they signed, was the custom tenancy agreement that the parties signed, which was signed manually, and not electronically by the Tenant.

The Condition Inspection Report provided by the Landlord includes comments for a move-in and move-out inspection at the start and end of the tenancy, and the document appears to have been electronically signed by both the Tenant and the Landlord.

The Landlord stated that they did a walk through with the Tenant on the last day, but that they took the pictures they submitted as evidence, *after* the Tenant vacated the rental unit. The Landlord said they did this to keep the peace with the Tenant.

The Tenant referred to a 2-minute video they submitted of the rental unit, as well as a 14-minute audio recording they submitted, said to be from that walk-through inspection attended by both. The Tenant argued that the audio will show that the Landlord did not raise any concerns at the time of the walk through.

The Landlord argued that the audio has been altered by the Tenant.

The Landlord stated that they have paid their Handyman \$700.00 to replace a lock on their door and paint the walls in the rental unit, and that the Landlord is waiting on the results of this hearing before they complete the other required repairs in the rental unit.

The Landlord stated that they secured new tenants from February 2, 2025.

Specific to the Handyman estimate, the Landlord is claiming for:

- New locks
- Fixing a curtain rod
- Replacing the bathroom fan
- Installing a new rangehood
- Painting the walls to cover smells
- Replacing a window screen
- Regrouting and cleaning shower tiles

Regarding the locks, the parties agreed that the Tenant returned the keys when the tenancy ended. The Landlord stated that they needed to replace the keys for safety at the estimated cost of \$450 + tax.

Regarding the curtain rod, the Landlord provided a picture showing it hanging from the wall. The Tenant denied damaging the curtain rod.

Regarding the bathroom fan, the Landlord stated that it was newly installed by the previous owners and was only 3-4 years old. The Landlord referred to a picture provided and stated that it had to be replaced because it did not work. The Landlord also referred to pictures of "black mould" in the bathroom of the rental unit to argue that the fan had not worked for a long time.

The Tenant denied knowledge of a broken fan and stated everything worked properly.

The Landlord stated that the rangehood was new when this tenancy started and referred to photos provided to argue that it became damaged during this tenancy and so the Landlord needs to replace it to ensure that cooking smells could be ventilated. The Tenant denied damaging the range hood.

The Landlord stated that the rental unit was last painted in March 2024 and had to be painted again in February 2025 because of the smells with this tenancy. The Tenant denied any issue and stated that she and her husband lived respectfully.

The Landlord referred to an exterior photo showing a screen door laying next to a patio door, which included evidence of a racoon at the door. When asked to confirm what exactly was damaged, the Landlord stated that it was a "window screen" and not the screen door".

The Landlord stated that they tried to end this tenancy in part because of the raccoons, arguing that the Tenant was intentionally attracting raccoons to the residential property. The Landlord stated that they deferred to their contractor for the costs of replacing the screen door, when asked why the Landlord did not simply get new mesh screen installed which is cheaper than a new screen.

The Tenant denied damaging the window screen and argued that it had a hole in the "netting" when the tenancy started.

Regarding the Bathroom tiles, the Landlord referred to photos provided showing significant black mould like marking around the full bottom perimeter of the shower. The Landlord stated that this portion of the tub had to be scrubbed and the handman had to replace the caulking so that the unit could be re-rented. The Landlord stated that they have not yet replaced the damaged tile but that the other work has been completed.

The Tenant denied damaging the tub and argued that they cleaned the tub twice a week. The Tenant referred to their video from move-out to argue that this video properly shows the condition of the rental unit on move out.

Regarding the Landlord's \$1,200.00 for Handyman charges in addition to the estimate provided, the Landlord stated that this is how much the Handyman has said it would cost, in addition to the estimate provided. No additional documentation was provided by the Landlord in support of this claim.

Regarding the Landlord's claim for refrigerator replacement, the Landlord referred to two photos provided, one showing dents, and the other showing a cracked corner of the fridge. Both parties agreed that this damaged refrigerator was not the appliance that was present in the rental unit at the end of this tenancy. The parties also agreed that the Landlord installed a new fridge within the unit at the start of this tenancy, and that the damaged fridge for which they are claiming compensation is the fridge they previously took out of the rental unit.

The Landlord had no receipts for this appliance and no proof of the condition of this appliance when the previous tenancy ended.

Regarding the two Kitchen Induction stovetops, the Landlord stated that they had to replace the two stove tops that had been provided to the Tenant because they were damaged and would no longer turn on. The Landlord stated that these appliances were 6 months old.

The Tenant denied damaging the stovetops and referred to their video on move-out to argue that the stovetops were left in good functional condition when this tenancy ended.

Regarding the \$400.00 for damaged wall and putty, the Landlord stated that this was in addition to the cost for painting which has already been paid. He referred to photos provided of a windowsill and heater register which shows a crack running from the

windowsill to the heating register. The Landlord stated that this wall damage has not yet been fixed.

The Tenant denied damaging the wall and argued that any crack would be the result of the building settling because it is an old building.

Regarding the \$100.00 claim for a damaged fan, the Landlord referred to a black standup fan which a cracked black faceplate. The Tenant denied damaging this fan.

## **Analysis**

The RTB makes decisions on the Balance of Probabilities.

Applicants are required to establish their claim as required by RTB Rule of Procedure 6.6, which means that the landlord is responsible for establishing on the balance of probabilities that the tenant caused damage contrary to the Act, and further, that the landlord is entitled to compensation for this damage.

### **Is the Tenant entitled to a Monetary Order for damage or loss under the Act, regulation or tenancy agreement?**

Section 35 of the Act establishes that, at the end of the tenancy, a landlord must inspect the condition of the rental unit with the tenant, the landlord must complete a condition inspection report with both the landlord and the tenant signing the condition report.

Section 32(3) of the Act states that a tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Regarding the evidentiary value of the condition inspection report provided by the Landlord as evidence of the condition of the rental unit at move-in and move-out, I find, as considered by section 21 of the Regulations, that the document provided to me has limited evidentiary value because the Tenant strongly denied every being provided with this document to sign, and even alleged that the Landlord has falsified their signature on the document. I also make this finding because the Landlord acknowledged completing the move-out condition inspection report AFTER the Tenant had vacated

To be awarded compensation for a breach of the Act, the tenant must prove:

- the landlord has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the tenant acted reasonably to minimize that damage or loss

This 4-part test is outlined in RTB Policy Guideline 16.

Regarding the Landlord's claim for compensation for damages, I find that they provided a confusing assortment of claims for costs which did not match their testimony regarding repairs already completed for a total charge of \$700.00, which the Landlord stated consisted of painting the walls (estimated to cost \$800.00) and replace the lock (estimated to cost \$250.00). The Landlord also testified that they had required work done to the bottom of the shower, which was estimated to have cost (\$990.00).

I find that the amount claimed to have been paid by the Landlord was significantly lower than the estimated provided by the Landlord of expected costs. I therefore find that the Landlord failed to satisfy part – 3 and part - 4 of the 4-part test above.

Regarding the portion of the claim regarding a lock replacement, I find that the parties agreed that the Tenant returned the keys to the Landlord as required by section 37(2)(B) of the Act and so I dismiss this part of the claim because I find that the Landlord failed to satisfy Part-1 of the 4-part test which required him to demonstrate that the Tenant broke a section of the Act and or tenancy agreement.

Regarding the portion of the Landlord's claim for a curtain rod off the wall, I find based on the photo provided by the Landlord that they established this portion of their claim and so I will arbitrarily award \$50.00 for the time to fix the curtain rod. I do not provide the full amount claimed because I find it excessive for the work required to ensure that a curtain rod is securely attached to the wall.

Regarding the portion of the Landlord's claim for replacing a fan that was maybe 3.5 years old when this tenancy ended, I accept based on the photos and videos provided that there was mould present in the bathroom of this rental unit when this tenancy ended, as seen in the base of the shower, and in the Landlord's photos of black mould on the ceiling.

However, based on the Landlord's testimony during this hearing, the Landlord had not yet replaced this fan despite securing a new tenant from February 2, 2025.

I nevertheless find it appropriate to award the Landlord with nominal damages of \$200.00 for this claim because I find that the Tenant did not properly report ventilation and drainage related issues needing attention to the Landlord during this tenancy.

Regarding the Landlord's claim for compensation for a new range hood installation, I find that the Landlord failed to establish on the balance of probabilities that this rangehood was damaged during this tenancy. Based on my review of photos and videos provided, it appears as though the Landlord has converted a bedroom to a standalone rental unit by installing some after the fact ventilation for a cooktop.

I find that the likely cause of the claimed damage by the Landlord, is faulty installation of a ventilation hood in a space that was likely never built to accommodate a kitchen exhaust hood.

Regarding the Landlord's claim for \$800.00 for painting, I note their claims for faulty ventilation and their claim for compensation for painting to cover smells. As noted above, I provided partial compensation to the Landlord for the Tenant's failure to promptly report ventilation issues that need to be address within the rental unit.

More information about the responsibilities of Landlord's and Tenants within a rental unit is provided within RTB Policy Guideline 1.

I find that prolonged lack of ventilation within the rental unit would increase odour, which is what the Landlord cited as their reason for painting, and so I award nominal award of \$300.00 for compensation to the Landlord for their costs incurred in repainting the unit.

As seen in RTB Policy Guideline 40, the expected serviceable life of an interior paint job is 6 years and so I accept that the Landlord had to repaint this unit much sooner than anticipated.

Regarding the Landlord's claim for compensation for a window screen, I find that this claim is for a replacement screen door. According to RTB Policy Guidelien 40, screen doors have an expected serviceable life of 5 years. The Landlord testified that they bought the residential property 3.5 years ago and the Tenant testified that the screen had holes when this tenancy started. The Landlord also testified that they have yet to replace this item.

I therefore find that the Landlord failed to satisfy the 4-part test for loss specific to the door screen because:

- They did not demonstrate that the tenant broke the screen because the Tenant testified it was previously broken,
- The screen was of unknown age,
- The Landlord did not demonstrate that the frame was also broken which would prevent it from being rescreened with a replacement screen only at significantly lower costs.

Regarding the claim for bathroom tile regrouting and cleaning, I find based on my review of the Landlords photos and the Tenant's evidence, there was significant black mould at the bottom perimeter of the shower in the rental unit after the tenancy ended. It appears the black mould related staining was likely caused in part by how the bottom of the shower was finished, perhaps with inadequate caulking to ensure that water did not sit around the perimeter of the shower.

I therefore find it appropriate to only award nominal compensation of \$200.00 to the Landlord for the additional work they had to have done prior to re-renting the unit.

I award a total of \$750.00 in compensation for damages towards the Landlord's claim for compensation for services provided by the Handyman. For clarity, I make these



awards for nominal damage because of the limited evidentiary value of the condition inspection report.

$\$200.00 + \$300.00 + \$200.00 + \$50.00 = \$750.00$

Regarding the Landlord's claim for \$1,200.00 for handyman charges, I find that they failed to provide the full particulars of this part of their claim as required by 59(2)(b) of the Act and so I dismiss it without leave to reapply.

Regarding the Landlord's claim for a refrigerator replacement, I find that they failed to establish on the balance of probabilities that the Tenant in this dispute damaged the refrigerator that was removed from their rental unit before this tenancy started. I therefore dismiss this part of the claim and do not give leave to reapply.

Regarding the Landlord's claim for replacement of two kitchen induction stovetops, I find that they failed to establish on the balance of probabilities that they were not working at the end of the tenancy. I make this finding because the Tenant alleged that they were still working, and the Landlord also stated that they have new tenants in the rental unit but they have not yet replaced the stovetops. I therefore dismiss this portion of the claim and do not give leave to reapply because I find that the Landlord failed to satisfy the 4-part test for loss as required by RTB Policy Guidelien 16.

Regarding the Landlord's claim for compensation for fixing the damaged portion of wall between the entrance way door and the heating register, I find that the photographic evidence provided by the Landlord, suggests that this portion of the wall was cracked by excessive force on the door step that may not have been framed properly as a primary entrance door since the parties repeatedly referred to it as a window, and the residential property was described as a "townhouse".

My review of the video evidence provided by both parties is that this window functioned as a door because the Tenant's video evidence shows their husband standing on the other side of the window/door frame with the door open.

I therefore find it appropriate to award nominal damages of \$150.00 only towards the \$400.00 claim for compensation because I find that the Landlord bears responsibility under section 32(1) of the Act to provide a living unit that complies with relevant building and safety standards.

Regarding the Landlord's claim for a broken standup fan, I find that the Tenant's video on move-out showing the fan in the closet, suggests the fan was in proper condition when this tenancy ending, and does not appear to have the cracked backplate as was shown in the photo provided by the Landlord. However, I also note that the placement of the fan in the Tenants' video obscures the broken part shown in the Landlord's photographic evidence, and so I award nominal compensation of \$50.00 to the Landlord.

The Landlord is entitled to a total monetary award of \$950.00 for damages or loss associated with this rental unit under section 32 and 67 of the Act.

$\$750.00 + \$150.00 + \$50.00 = \$950.00$

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

**Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested?**

I find that the parties agreed that the Landlord was served with the Tenants' forwarding address on February 25, 2025, and that the tenancy ended on February 1, 2025.

The Landlord applied to the RTB for compensation for damages on February 17, 2025.

I find that the Landlord to the RTB within 15 days of the tenancy ending because as seen in the Definition section of the RTB Rules of Procedure, Part B of the Definition of "Days" sets out that:

- ~~the next day that is not a holiday.~~
- b) If the time for doing an act in a government office (such as the Residential Tenancy Branch or Service BC) falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open.

Regarding the Landlord's obligations to conduct a move-in and move-out condition inspection and produce a move-out condition inspection report, I gave leave to the Landlord to submit documentary evidence regarding their creation of sharing of the move in and move-out inspection reports with the tenant as part of conducting the move-in and move-out condition inspections.

The Landlord did not provide these documents despite the specific instructions and deadline, with reasons, they had been provided during the participatory teleconference hearing.

In absence of this proof, I find that the Landlord provided no documentation to confirm that they satisfied their obligations under section 24(5) of the Act which required both parties to sign the move-in condition inspection report, and then section 18(1)(a) of the Regulations which required the Landlord to serve a copy of this completed move-in condition inspection report within 7 days of May 1, 2024, after the move-in condition inspection was conducted and this tenancy started.

I therefore find consistent with recent case law guidance of *Leung v Ty, 2024 BCSC 1214*, as well as guidance in section F of RTB Policy Guideline 17, that the Tenants are entitled to double the return of the current value of their security deposit because the Landlord extinguished their right to retain the security deposit under both sections 24 of the Act.

And because the Landlord collected a \$1,000.00 security contrary to section 19(1) of the Act which limits deposits to ½ the value of monthly rent, I find that the Tenant is entitled to double the value of the full deposits paid, plus interest under section 4 of the Regulations.

I find that this deposit earned \$21.33 in interest according to the online RTB security deposit interest calculator.

I therefore find that the Tenant is entitled to payment of \$2,021.33 for return of their security deposit from the Landlord due to the Landlord's failure to promptly return the full value of the deposit to the Tenant as required by section 38(1) of the Act, which should have seen the Landlord return the full value of the deposit to the Tenants within fifteen days of being served with the forwarding address.

$$\$1,000.00 \times 2 = \$2,000.00 + \$21.33 = \$2,021.33$$

As required by RTB Policy Guideline 17, any award for damage to the Landlord, will be SET OFF against the award to the Tenant because I found that the Landlord was entitled to a \$950.00 claim for damages.

I find that the Tenant is entitled to a monetary award in the amount of \$2,021.33 for double the return of the total security and/or pet damage deposit, plus interest, because I dismissed the remainder of Landlord's application to retain the security and/or pet damage deposit due to the extinguishment of their right to keep it.

### **Is either party entitled to recover the filing fee for this application from the other?**

I find that both parties paid the \$100.00 filing fee and that neither is entitled to recover the filing fee from the other because I have found that they have both contravened the Act and Tenancy Agreement in their applications to the RTB.

I therefore dismiss both of their requests under section 72 of the Act and do not give leave to reapply.

### **Conclusion**

I grant the Tenant a Monetary Order in the amount of **\$1,071.33** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act	-\$950.00
a Monetary Order for the Tenant for the return of their deposit(s) from the Landlord	\$2,021.33
<b>Total Amount</b>	<b>\$1,071.33</b>

The Tenant is provided with this Order in the above terms and the Landlord(s) must be served with **this Order** as soon as possible. Should the Landlord(s) fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court) if equal to or less than \$35,000.00.

The Landlord's application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

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

Dated: May 6, 2025

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Residential Tenancy Branch