



DECISION

Introduction

This hearing was convened as a result of the parties' applications for dispute resolution under the *Residential Tenancy Act* (the "Act").

The Landlord applied for:

- compensation of \$3,150.00 for unpaid rent under section 67 of the Act;
- compensation of \$3,470.00 for damage to the rental unit under section 67 of the Act; and
- authorization to recover the Landlord's filing fee from the Tenant under section 72 of the Act.

The Tenant applied for:

- compensation of \$11,431.60 for monetary loss or other money owed under section 67 of the Act; and
- authorization to recover the Tenant's filing fee from the Landlord under section 72 of the Act.

The Landlord's son KB and the Tenant attended this hearing and gave affirmed testimony.

Preliminary Matters

Service of Notice of Dispute Resolution Proceeding and Evidence

The parties confirmed receipt of each other's notice of dispute resolution proceeding and evidence.

Style of Cause

The Landlord's application initially named the Tenant with a different last name. The Tenant confirmed his correct last name.

The Tenant's application initially named four other family members as co-applicants. I find there was no written tenancy agreement or amendment that identified the Tenant's family members as co-tenants. Furthermore, I find the issues during the tenancy were

largely dealt with between the Landlord and the Tenant only. Therefore, I find the Tenant's family members were occupants rather than tenants.

Based on the foregoing and pursuant to section 64(3)(c) of the Act, I unified the style of cause across both applications by correcting the Tenant's last name and removing the Tenant's family members as parties.

Clarification of the Landlord's Claims

I find the Landlord did not include a claim for compensation related to disturbance of peace (\$5,000.00) in his application. I find the Landlord also did not make an amendment application to add this claim. However, I find this claim was stated in the Landlord's monetary order worksheet, and was reasonably anticipated by the Tenant, who provided testimony responding to this claim. As such, I have amended the Landlord's application to include this claim under Rule 7.12 of the Rules of Procedure, and I have addressed it in this decision.

Issues to be Decided

Is the Landlord entitled to compensation for unpaid rent, damage to the rental unit, and monetary loss?

Is the Tenant entitled to compensation for monetary loss?

Are the parties entitled to recover their filing fees?

Background and Evidence

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

The rental unit was a two-bedroom basement suite. Prior to moving into the rental unit, the Tenant rented a one-bedroom basement suite from the Landlord in the same house since 2018.

This tenancy commenced on June 15, 2020 and was month-to-month. The rent was initially \$1,500.00 due on the 15th day of each month, and was inclusive of utilities.

Over the course of the tenancy, the monthly rent was increased as follows:

- to \$1,650.00 starting on November 15, 2021
- to \$1,750.00 starting on February 15, 2023
- to \$1,900.00 starting on April 15, 2023
- to \$2,100.00 starting on May 15, 2024

This tenancy ended by January 31, 2025.

The parties were involved in a previous dispute resolution proceeding (see file number referenced on the cover page of this decision), which led to a decision issued by the Residential Tenancy Branch on March 10, 2025 (the “Previous Decision”).

In the Landlord’s application, the Landlord seeks compensation for:

Item	Amount
Unpaid Rent for January 2025 (\$1,050.00) and Loss of Rent (\$2,100.00)	\$3,150.00
Wall Damage	\$2,300.00
Sink Tap and Shower Faucet Materials	\$485.00
Plumbing Labour	\$300.00
Bathroom Door Replacement and Labour (\$235.00 + \$100.00)	\$335.00
Bedroom Door Handle	\$50.00
Disturbance of Peace	\$5,000.00
Total	\$11,620.00

The Tenant seeks compensation of \$11,431.60 for unlawful rent increases. The Tenant’s claim was dismissed with leave to re-apply in the Previous Decision.

The Landlord’s Position

The Tenant paid half of the monthly rent that was due on January 15, 2025 and moved out by the end of that month. The Landlord had asked the Tenant to give 30 days’ notice for moving. The Landlord seeks unpaid rent of \$1,050.00 and another month’s rent due to insufficient notice given by the Tenant.

The Tenant left behind damages in the rental unit. There were a lot of holes in the rental unit walls. The Landlord paid \$2,300.00 for filling, sanding, and painting.

The sink and shower faucets were left non-functional. The shower faucet was manually bypassed so that the water came out of the shower head only and not the tap. The Landlord’s plumber said the whole set needed to be replaced. The bedroom door handle was also broken.

The bathroom door was cracked in half along the seam and needed to be replaced. The Landlord was told the Tenant broke down the bathroom door because the glass shower door had fallen and startled the Tenant’s wife. The Tenant’s wife said she had slipped and pulled the shower door.

During the tenancy, the Tenant only reported a leaking sink which the Landlord repaired. The Landlord also replaced a broken belt for the dryer.

After completing repairs and painting, the Landlord listed the rental unit for rent at \$1,800.00 per month all-inclusive on or around February 8, 2025. The Landlord has since lowered the rent to \$1,700.00 per month and upped the advertising to include a small pet. The Landlord has not yet found the right tenant for the unit. A lot of people wanted two or six months, but the Landlord did not want fluidity. The photos of the rental unit submitted by the Tenant were actually taken from the Landlord's online rental listing.

There was loud music from the rental unit over the course of the tenancy. The Landlord and his wife are seniors and were unable to sleep many times. KB advised the Landlord to have a word with the Tenant, but the Landlord did not want to as he thought it was rude to express the noise level. The Tenant also added new occupants to the rental unit which disturbed the Landlord. The Tenant's family members asked to use other parts of the property for business purposes, which the Landlord refused. The way the tenancy was ended also caused the Landlord stress.

The Tenant's Response and Position

The Tenant moved out of the rental unit due to constructive eviction. The Tenant was on month-to-month and was given a choice by the Landlord to pay more rent or move out. The Tenant wanted to move out by January 15, 2025, but the Landlord said he could only find tenants for the first of the month, so the Tenant told him he would move out by the end of January.

There was no move-in inspection of the rental unit, and there was damage from the previous tenant. The Tenant denies all damages claimed by the Landlord. The Tenant had messaged the Landlord about fixing the faucet. The Landlord brought a used faucet and tried to fix it himself but made it worse. Most of the time there were no repairs. The Landlord failed to maintain the property. The glass shower door broke when the Tenant's wife was showering. The Tenant's wife was shouting and the Tenant's family thought she was seriously injured and had to kick in the door. The Tenant has provided a hospital report.

The Tenant did not disturb the Landlord's peace or have loud music. The Tenant started work early in the day and would be in bed by 8 or 9pm. The Tenant's wife would also be at work across the street. The Tenant initially moved into the rental unit with his wife. They were later joined by the Tenants' parents, who visited for 6-month periods on their visas. The Tenant's parents now have super visas. The Tenant's brother moved into the rental unit in May 2024. The Tenant's cousin lives in another province and visited in 2022 and 2024. She stayed at the rental unit for only a couple of in 2024 and did not live there.

The Landlord increased the rent in November 2021 and twice in 2023. It was the same conversation every time about how expensive everything was. The Tenant agreed with the increases because rents were higher elsewhere if the Tenant's family moved out. The Tenant was not aware that there was a rent limit of a certain percentage. The Tenant did not approach the Landlord to offer rent increases for additional occupants moving in other than for the Tenant's brother in May 2024.

The Landlord's Response

The Tenant offered to pay the Landlord more for new occupants moving into the rental unit. They were mutual agreements, not rent increases. The principle of estoppel applies.

The original agreement was for two occupants, the Tenant and his wife. The rent was all-inclusive of utilities, including cable and internet.

In November 2021, the Tenant approached the Landlord about his cousin staying in the rental unit with him. The Landlord expressed concern, but based on the Tenant's offer of an additional \$150.00 per month, the parties reached a mutual agreement to raise the rent to \$1,650.00. The Tenant's cousin lived in the unit until March 2023 and worked at a business a block away.

In March 2023, the Tenant approached the Landlord again about his parents coming from abroad to stay in the unit. The Tenant offered to pay \$250.00 more per month. The Landlord accepted but mentioned that five people was too much. The Tenant said he would look for a bigger place. The Landlord had a legal right to evict the Tenant, but did not want to do that to someone trying to make ends meet.

The Landlord accepted the funds with the understanding that the additional occupants would be temporary, but it took the Tenant almost two years to find a bigger home. By the end of 2024, the Landlord began to ask the Tenant as there were too many people, the suite was too small, and the noise level was too high. The Tenant eventually found something but did not end the tenancy with sufficient notice to the Landlord.

The Landlord said the rent next month would be \$2,400.00 as that was the rent for a three-bedroom suite. This was not charged to the Tenant. The Tenant was mostly living with five people, at one point six, which was not acceptable for the unit, based on the BC Building Code and National Occupancy Standard. The water system on the property was not built for that many people. The Landlord had to spend money to upgrade water filtration. The washer and dryer were being used 7 days a week for that many people.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Is the Landlord entitled to compensation for unpaid rent, damage to the rental unit, and monetary loss?

Section 67 of the Act states that if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

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.

To determine whether compensation is due, the arbitrator may assess whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Unpaid Rent and Loss of Rent

In the Previous Decision, it was noted that the Tenant had claimed he moved out of the rental unit due to harassment. The arbitrator found the Tenant could have continued the tenancy, and did not grant the Tenant's claim to seek an order that the tenancy had ended due to a frustrated tenancy agreement. The arbitrator also found that the Landlord did not give the Tenant a notice to end tenancy.

I find that on January 15, 2025, the Tenant texted the Landlord to say he will "move out as of 1st February" 2025. I do not find the Landlord to have agreed to mutually end the tenancy by January 31, 2025, or to prorate the last month's rent for the Tenant. I find the Landlord had previously requested the Tenant to give 30 days' notice. I further note that although the Tenant also texted to say the Landlord will "get the rent for the remainder of the time", it was unclear whether this would have been to January 31, 2025 or to February 14, 2025. Therefore, I do not find the Landlord's reply of "that's good boy" to imply that the Landlord had understood the Tenant would only pay \$1,050.00 and was agreeing to prorate the rent as such. Additionally, I find that in subsequent text messages between KB and the Tenant, the Tenant's justification for paying only half of the rent due on January 15, 2025 was not because the Landlord had agreed to this, but it was because the Tenant had already moved out by January 31, 2025. Therefore, I do not find the tenancy to have ended by mutual agreement, with the parties agreeing to prorate the rent.

I find that at the time of the Tenant's text message on January 15, 2025, the monthly rent of \$2,100.00 was already due to the Landlord in full, since the rent was payable on

the 15th day of each month. As explained further below, I do not find that the rent was unlawfully increased to \$2,100.00. Moreover, I find the Tenant did not deduct half of the rent based on a legal right to do so provided under the Act. Moving out partway through a monthly rent cycle does not automatically entitle a tenant to prorate the last month's rent without the landlord's consent. Accordingly, I find the Landlord is entitled to compensation of \$1,050.00 for unpaid rent under sections 26(1) and 67 of the Act.

Under section 45(1) of the Act, a tenant may end a month-to-month tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice. In other words, the tenant must give the landlord at least one full month's notice. The effective date must also be the day before the day in the month that rent is payable under the tenancy agreement (section 45(1)(b) of the Act).

I find that by notifying the Landlord on January 15, 2025, the earliest date that the Tenant could have legally ended the tenancy under section 45(1) of the Act would have been March 14, 2025. As such, I find the Tenant did not give the Landlord sufficient notice to end the tenancy.

As explained in Residential Tenancy Policy Guideline 3, if a tenant abandons or vacates a rental unit before a tenancy agreement has ended, the tenant must compensate the landlord for the damage or loss that results from their failure to comply with the legislation and the tenancy agreement. Compensation will generally include any loss of rent up to the earliest time that the tenant could legally have ended the tenancy. In all cases, the landlord must do whatever is reasonable to minimize their damage or loss. This includes re-renting the premises as soon as reasonable for a reasonable amount of rent in the circumstances.

In this case, I find the Landlord did not provide sufficient proof that he had acted reasonably to minimize his loss of rent from February 15 to March 14, 2025. I find the Landlord's evidence suggests that potential tenants were being turned away because they wanted a two-month or six-month rental. While I recognize the Landlord prefers a tenant who can commit to a longer term, I find the Landlord could have likely mitigated his loss of rental income during the period claimed by accepting one of the potential tenants who wanted a shorter term. Therefore, I do not find that the Tenant should compensate the Landlord for the loss of one full month's rent. I fix the Landlord's entitlement for loss of rental income at $\$2,100.00 - \$1,800.00 = \$300.00$, the difference between the rent paid by the Tenant and the rent at which the Landlord re-listed the unit.

Repairs

Under section 32(3) of the Act, 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.

The Landlord did not submit photos of the rental unit walls taken before the tenancy or upon the Tenant's moveout. I find the Landlord has not provided sufficient evidence to prove that the Tenant or a person permitted on the property by the Tenant had caused damage to the walls beyond reasonable wear and tear. As stated in Residential Tenancy Policy Guideline 1, the landlord is responsible for painting the interior of the rental unit at reasonable intervals. Therefore, I find the Landlord is not entitled to recover the cost of the invoice for putty work and painting from the Tenant.

The Landlord submitted videos showing that no water was coming out of the bathroom sink or tub faucets. I find that on July 6, 2024, the Tenant had messaged the Landlord about a leaking faucet. I find the Landlord has not provided sufficient evidence to prove what repairs, if any, were undertaken at that time. I find the Landlord has not provided a statement from his plumber to explain what was wrong with the faucets. Based on the evidence presented, I do not find the Landlord to have proven that the faucets were damaged due to the actions or neglect of the Tenant, and that they were not malfunctioning due to age, defect, or another cause. Therefore, I do not find the Landlord is entitled to compensation from the Tenants for replacing the faucets.

I find the bathroom door was broken by the Tenant and/or a person in the Tenant's household when they heard the Tenant's wife yelling in the shower. Based on the hospital report, I find the Tenant's wife suffered "superficial lacerations" to her hand and feet with the complaint being categorized as "general & minor". I note the parties disagree as to how the shower door had fallen. Based on the evidence presented, I do not find that it was reasonably necessary to break down the bathroom door, or that the responsibility for the repair should be shifted to the Landlord even though the door was broken by the Tenant. Therefore, I find the Tenant to be responsible for this repair. I accept the Landlord's evidence that a replacement door costs approximately \$235.00 with taxes and \$100.00 for the labour to install. According to Residential Tenancy Policy Guideline 40, interior solid-core doors have an estimated useful life of 30 years. Publicly available records indicate this property was built in 2015. Therefore, using an estimate that the bathroom door was approximately 10 years old at the end of the tenancy, I find the Landlord is entitled to compensation of $(\$235.00 + \$100.00) \times 20/30$ years of useful life remaining = \$233.33 for replacing the damaged bathroom door.

Disturbance of Peace

A tenant's right to quiet enjoyment is protected under section 28 of the Act. While the Act does not specifically refer to a right to quiet enjoyment for landlords, a landlord may end a tenancy for cause if the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed the landlord (section 47(1)(d)(i) of the Act).

I find the Landlord has not provided sufficient evidence to prove that the Tenant or a person permitted on the property by the Tenant has unreasonably disturbed the Landlord, or that the Landlord has suffered a loss of \$5,000.00 as a result.

I find the Landlord has not given details related to any specific incident, or proof of the level and frequency of any disturbances. Furthermore, I note the Tenant cannot be expected to correct a situation if the Landlord did not communicate that there was a problem. I find the Landlord is not entitled to any compensation claimed under this part.

Is the Tenant entitled to compensation for monetary loss?

Section 41 of the Act states that a landlord must not increase rent except in accordance with Part 3 of the Act. Section 43(5) of the Act states that if a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.

Under section 42 of the Act:

- a landlord must not impose a rent increase for at least 12 months after the start of the tenancy and each subsequent rent increase
- a landlord must give a tenant notice of rent increase at least 3 months before the effective date of the increase
- a notice of a rent increase must be in the approved form (currently the #RTB-7)

Pursuant to section 43(1) of the Act, a landlord may impose a rent increase only up to the amount:

- calculated in accordance with the regulations (annual rent increase)
- ordered by the director on an application under section 43(3) of the Act (additional rent increase), or
- agreed to by the tenant in writing (agreed rent increase)

Section 40 of the Act states that “rent increase” does not include an increase in rent that is for one or more additional occupants, and is authorized under the tenancy agreement. Under section 13(2)(f)(iv) of the Act, if the rent varies with the number of occupants, the tenancy agreement must set out the amount by which it varies. A landlord must not increase the rent based on the number of occupants for the addition of an occupant (a) who is a minor, or (b) who was a minor and an occupant when the tenancy agreement was entered into but is no longer a minor (section 22.1 of the Act).

In this case, I find the parties entered into a verbal tenancy agreement with the understanding that there would be two occupants, the Tenant and his wife, living in the rental unit and that the monthly rent would be inclusive of all utilities.

I find that during the tenancy, the Landlord never issued the Tenant any notice of rent increase in the approved form.

Starting with the most recent increase, I find it is undisputed that the parties verbally agreed to increase the monthly rent to \$2,100.00 in May 2024 to allow the Tenant's brother to move in. Under section 14(2) of the Act, a tenancy agreement may be

amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment. I find the change in rent in May 2024 was an amendment to the parties' tenancy agreement by mutual consent under section 14(2) of the Act, rather than a rent increase to which Part 3 of the Act applies. I find the parties in essence agreed that the rent would increase by \$200.00 for an additional occupant. Therefore, I do not find this change to be an unlawful rent increase, and I find the Tenant is not entitled to reimbursement of any portion of the rent paid since May 2024.

I note that even if I were to find the change in rent starting in May 2024 was a rent increase, I would have found the Tenant to be estopped from disputing this increase.

The principle of estoppel provides that if the person having certain rights against another represents that those rights will be compromised or varied, and the party having the obligation relies upon that representation to his or her detriment, then the person making the representation is estopped from reasserting or relying upon his formal rights (*Tymchuk v. D.L.B. Properties*, 2000 SKQB 155 at para. 17).

I find the Landlord relied on the Tenant's agreement to pay more rent to his detriment, by allowing the Tenant's brother to move into the rental unit, considering the number of people already living in the unit, and when the rent was inclusive of all utilities. As a result, I find that it would be unfair to now require the Landlord to reimburse the Tenant the additional amounts received.

I find the Tenant is estopped from disputing the rent increases in 2023 for similar reasons. I find that more likely than not, the Tenant's parents were occupants who had moved into the rental unit by 2023, and continued to reside there for extended periods throughout the remainder of the tenancy. I find that even if the February and April 2023 increases were not specifically agreed for the Tenant's parents to move into the unit, the Tenant had discussed these increases with the Landlord, was told about the high costs for utilities, and verbally agreed to the increases. I find the Tenant accepted the new rent amounts in 2023, given that it would have been more expensive for the Tenant's family to rent elsewhere at the time. I find the Landlord would have relied on the Tenant's agreement to pay the increases to his detriment by allowing the Tenant's parents as additional occupants, despite the parties' original agreement that the rental unit was for the Tenant and his wife only, and with rent being inclusive of utilities. Therefore, I do not find the Tenant to be entitled to reimbursement of any portion of the rent paid from February 2023 to April 2024.

I find the Landlord has not provided sufficient evidence to prove that the Tenant's cousin ever moved into the rental unit. I note the Tenant's testimony that his cousin was living and working in other provinces. I find the Tenant did not include his cousin as a co-applicant in his application. Based on the evidence presented, I do not find the November 2021 rent increase was an agreement for an additional occupant, nor do I find the Tenant to be estopped from disputing this increase. I find this rent increase was unlawful as the allowable increase in 2021 was 0% due to the COVID-19 rent freeze. I

find the Tenant did not consent in writing to this increase, and the Landlord did not give any proper notice in the approved form. As such, I find the Tenant is entitled to reimbursement of the \$150.00 increase paid from November 15, 2023 to February 14, 2024, or $\$150.00 \times 15 \text{ months} = \$2,250.00$.

Are the parties entitled to recover their filing fees?

Since both parties have been partially successful in their applications, I find the parties are entitled to recover their filing fees from each other under section 72(1) of the Act.

Conclusion

The Landlord is entitled to compensation of **\$1,673.33** for unpaid rent, loss of rental income, damage, and recovery of the filing fee.

The Tenant is entitled to compensation of **\$2,350.00** for an unlawful rent increase and recovery of the filing fee.

Pursuant to sections 67 and 72(1) of the Act, I grant the Tenant a Monetary Order of **\$676.67** for the difference, calculated as follows:

Item	Amount
Amounts Payable by Landlord to Tenant	
Unlawful Rent Increase	\$2,250.00
Tenant's Filing Fee	\$100.00
Subtotal	\$2,350.00
Less Amounts Payable by Tenant to Landlord	
Unpaid Rent	- \$1,050.00
Loss of Rental Income	- \$300.00
Bathroom Door Damage	- \$223.33
Landlord's Filing Fee	- \$100.00
Subtotal	- \$1,673.33
Net Payable by Landlord to Tenant	\$676.67

This Order may be served on the Landlord, filed in the Smalls Claims Division of the Provincial Court of British Columbia, and enforced as an order of that court.

The remaining amounts claimed by the parties are dismissed without leave to re-apply.

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 23, 2025

Residential Tenancy Branch