DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for unpaid rent under section 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 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

This hearing also dealt with the Tenants' Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- a Monetary Order to recover the security and pet damage deposits from the Landlord under section 38 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

Landlord agents G.H. and K.T. (the Agents) attended the hearing on behalf of the Landlord. The Agents testified that the Tenants were served with the Landlord's application for dispute resolution and evidence via registered mail on March 14, 2025. A Canada Post registered mail receipt for same was entered into evidence.

The Tenants testified that they received the Landlord's Proceeding Package and evidence on March 18, 2025. I find that the Landlord's Proceeding Package and evidence were served on the Tenants in accordance with section 89 and 88 of the Act.

The Tenants testified that they served their responding evidence via registered mail on April 16, 2025. A Canada Post receipt for same was entered into evidence. The Canada Post website states that the package associated with this tracking number was delivered to the Landlord on April 17, 2025 and was signed for by S.C.

The Tenants testified that they served their Proceeding Package and evidence to the Landlord via registered mail on April 16, 2025. A Canada Post receipt for same was entered into evidence. The Canada Post website states that the package associated with this tracking number was delivered to the Landlord on April 17, 2025 and was signed for by S.C. The Tenants testified that their responding evidence and Proceeding Package were sent in two separate mailings. The receipt entered into evidence confirms same.

The Agents testified that the Landlord did not receive the Tenants' responding evidence or the Proceeding Package. The Agents testified that S.C. is the Landlord's secretary.

Based on the Tenants' proof of service documents and the Canada Post tracking website, I find that the Tenants served their responding evidence, and Proceeding Package with supporting evidence on the Landlord via registered mail on April 16, 2025. Based on the testimony of the Agents and the Canada Post website, I find that the Landlord's secretary signed for these documents on April 17, 2025 and thus they were received by the Landlord on April 17, 2025.

The Agents requested an adjournment as they did not have the Tenant's evidence or application for dispute resolution before them.

Rule 7.9 of the Residential Tenancy Branch Rules of Procedure states that without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- the oral or written submissions of the parties;
- the likelihood of the adjournment resulting in a resolution;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;
- whether the adjournment is required to provide a fair opportunity for a party to be heard; and
- the possible prejudice to each party.

In the hearing I declined to grant an adjournment as the Tenants' evidence and Proceeding Package were served on the Landlord in accordance with the Act and were signed for by the Landlord's secretary. I find that the need for the adjournment arises out of the neglect of the party seeking the adjournment.

I find that while the denial of the adjournment causes prejudice to the Landlord, the Landlord is the cause of that prejudice by not internally handling their legal documents with care and consideration. The Landlord will be provided with a fair opportunity to respond to the Tenants' claims in this hearing.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent under section 67 of the Act?
- Is the Landlord entitled a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act?
- Is the Landlord entitled 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?
- Is the Landlord entitled to authorization to recover the filing fee for this application from the Tenant under section 72 of the Act?
- Are the Tenants entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act?
- Are the Tenants entitled to a Monetary Order to recover the security and pet damage deposits from the Landlord under section 38 of the Act?
- Are the Tenants entitled 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.

It was undisputed that:

- this tenancy began on August 1, 2023 and ended on February 28, 2025
- rent was $2,300.00, due on the first day of the month
- this was a fixed term tenancy set to end on July 31, 2025
- the tenants paid a security deposit of $1,150.00 and a pet damage deposit of $1,150.00 (the deposits)

The Agents testified that the deposits were due June 6, 2023 but that they do not know when they were received. The Tenants did not know when the deposits were sent to the Landlord, but that it was before the start of this tenancy. The Landlord applied for dispute resolution on March 13, 2025.

Both parties agree that the Tenants provided the Landlord with their forwarding address in their notice to end the tenancy which was given to the Landlord in person on January 27, 2025. The notice to end tenancy ended the tenancy on February 28, 2025. It was undisputed that on January 28, 2025 the Tenants requested a mutual agreement to end tenancy which the Landlord did not agree to.

Tenants’ claim

Loss of quiet enjoyment

The Tenants' testified that they are seeking the Landlord to return November 2024, December 2024 and January 2025's rent to them for loss of quiet enjoyment of the rental unit due to construction noise and noise from their neighbour. The Tenant's application for dispute resolution also seeks to recover the security deposit and pet damage deposit from the Landlords.

The Tenants testified that their neighbour routinely left their tv on maximum volume between the hours 4:30 am to 5 :00 am and 10:00 pm to 11:00 pm and that this disturbed them. The Tenants testified that the noise from their neighbour prevented them from using the bedroom that adjoined the neighbour as the volume was the loudest in this room.

The Tenants testified that they first contacted the Landlord about this noise issue on November 6, 2024 and an agent of the Landlord responded on November 7, 2024 confirming which unit the Tenants were complaining about. The November 6-7, 2024 emails were entered into evidence. The November 6, 2024 email from the Tenants to the Landlord states:

> Just wanted to inquire about best way to go about noise issues with a neighbour. I have contemplated trying to speak directly to them but don't know if that's the best way to approach it, or if I should discuss with you first?
>
> We are routinely woken up very early morning by TV sounds next door which a few times have been loud enough to make the walls of our bedroom shake, and while the noise lessens a little bit throughout the day, stays consistently loud enough that if we are home, we just can't be in that room comfortably from often before 5 in the morning until after 10 at night.

The Tenants testified that they followed up with the Landlord about their neighbor's noise on November 19, 2024, November 27, 2024, December 5, 2024 and January 9, 2025. The November 2024 and December 2024 emails were entered into evidence and were all sent to a Landlord email address. The January 2025 email was sent to a property manager of the Landlord. The property manager responded on January 9, 2025 advising the Tenants to use the Landlord's email address that the tenants previous November 2024 and December 2024 emails were addressed to. The January 9, 2025 email did not address the noise complaint.

It was undisputed that in the rental building the ground floor is commercial space. The Tenants testified that the construction noise coming from the commercial space has disturbed them. The Tenants testified that the construction noise was intermittent and that while it was expected to some extent, the foundation drilling was particularly disturbing. The Tenants testified that this noise occurred 2-4 times per week and on some weekends. The Tenants testified that the noise continued from July 2024 through to February 2025.

The Tenants did not upload into evidence any communications between themselves and the Landlord in which they indicated to the Landlord that the construction noise was a problem. The Tenants testified that the noise interfered with their ability to work from home. The Tenants entered into evidence an audio recording of drilling sounds occurring on October 22 and November 3. The evidence does not state what year the recordings were taken, and this information was not provided by the Tenants in the hearing.

The Tenant testified that they believe they are entitled to recover 3 months rent from November 2024 to January 2025 because of the lack of communication from the Landlord regarding their noise issue with their neighbour.

The Agents testified that while the Landlord may not have responded to the Tenants' emails, the Landlord gave verbal and written warnings to the Tenant's neighbour. The Agents testified that the Landlord is not required to inform the Tenants about their communications with the neighbour. The Agent testified that the Landlord has taken reasonable steps under the Act.

The Agents testified that regarding the downstairs commercial space, there is no commercial space directly below the Tenants, the Agents testified that the lobby to the building is below the Tenants.

The Agents testified that the commercial space is managed by a separate company and is not governed by the Act. The Agents testified that the Tenants need to report any noise issued to city bylaw officials. The Agents testified that the noise is permitted in the rental city from 7am to 7pm 6 days per week. The Agents testified that Sunday is a day of quiet.

The Tenants testified that they heard noise after 7 pm and on Sundays.

The Tenants testified that they ended their tenancy early because of the unresolved noise issues. No written communications from the Tenants to the Landlord claiming a breach of a material term were entered into evidence.

Landlord's claim

The Landlords are seeking the following damages from the Tenants:

Item	**Amount**
Liquidated damages	$1,150.00
Moving fee	$200.00
Incentive repayment	$2,900.00
Loss of rental income and utility payment	$2,345.00

Liquidated damages

The Agent testified that the Tenants breached their fixed term tenancy agreement by breaking the lease early.

Section 3 of the Addendum to the tenancy agreement states:

> Without prejudice to any other remedies available to the Landlord, if the Tenant ends the tenancy prior to the end of the term of the Tenancy Agreement, or is in breach of the Residential Tenancy Act or a material term of the Tenancy Agreement that cause the Landlord to end the tenancy prior to the end of the term of the Tenancy Agreement, the Tenant will pay to the Landlord the sum of $1,150.00 as liquidated damages. Such liquidated damages are an agreed pre-estimate of the Landlord's cost of re-renting the Premises and must be paid in addition to any other amounts owed by the Tenant to the Landlord. The Tenant will also be responsible for any rent remaining due during the remainder of the term of the Tenancy Agreement, until the Premises are re-rented. Landlord will take all reasonable steps to ensure the Premises are re-rented as soon as possible in order to mitigate any damages for breach of the Tenancy Agreement by the Tenant.

The addendum to the tenancy agreement was signed by the parties and the Tenants initialled section 3 reproduced above.

The Agents testified that the Tenants are required to pay liquidated damages in the amount of $1,150.00 for the pre-agreed cost of re-renting the rental property.

The Tenants testified that they are not sure if the unit was properly shown for rent as despite being served with notice of entry for showings, they are not aware of any showings occurring in the rental property in February 2025.

The Agents testified that some showings were virtual and that the Landlord has many units with similar floor plans and that prospective Tenants may have been shown a different suite with their floor plan.

Moving fee

The Agents testified that the Tenants were required to pay a $200.00 move out fee as set out in section 13 (c) of the addendum to the tenancy agreement. Section 13(c) states that:

> A move-in / move out fee of $200.00 is due and payable to the Landlord by the Tenant upon moving out and will be deducted from the tenant's security deposit.

The Tenants testified that the move out fee cannot exceed $15.00 or 3% of the monthly rent.

The Agents testified that the Tenants are confusing moving out with moving within a rental building.

Incentive re-payment

The Agents testified that in exchange for residing in the rental property for 24 months, the Tenants were granted their 13th month free as well as 6 months of free parking, a value of $600.00. The Agents testified that the Landlord is seeking to recover the 13th month of free rent given to the Tenants in the amount of $2,300.00 as well as the free parking given to the tenants, valued at $600.00.

The parties signed the Incentive Addendum to the tenancy agreement which states:

> As the Tenant(s) has agreed to a 24 month lease, the Landlord is offering the Tenant the following renal incentive:
>
> > 13th & 25th month free rent. August 2024 and August 2025 ($2,300 per month) 6 months free parking 1 stall (value $600)
>
> Without prejudice to any other remedies available to the Landlord, if the Tenant ends the fixed term Tenancy prior to the end of the fixed term, or is in breach of the Residential Tenancy Act, or a material term of the Tenancy Agreement that causes the Landlord to end the Tenancy prior to the end of the fixed term, the Tenant will pay back all incentives and or discounts provided to the Tenant in addition to any other amounts owed by the Tenant.

The Agents testified that since the Landlord never gave the Tenants the 25th month free, the Landlord is not seeking this amount from the Tenants.

The Tenants testified that they did not want to end their tenancy early and only did so because of ongoing noise issues the Landlord did not deal with. The Tenants testified that they do not think its just that they should re-pay the incentives in this scenario.

The Tenants testified that they repeatedly contacted the Landlord regarding noise complaints and that the Landlord did not respond.

Loss of rental income and utility payment

The Agents testified that the Landlord is seeking the Tenants to pay for March 2025's rent in the amount of $2,300.00 as the Landlord was unable to find new Tenants for March 2025. The Agents testified that the Landlord is also seeking the Tenants to pay March 2025's utility payment in the amount of $45.00.

Section 25 of the addendum to the tenancy agreement states that the fixed utility rate is $45.00 per month.

The Agents testified that the Landlord immediately advertised the rental property for rent after receiving the Tenants' notice to end tenancy. The Landlord entered into evidence an advertisement for the rental building which states that 1-2 bedroom units are available for between $2,295.00 and $2,850.00 per month and that the square footage ranges from 610-880 square feet.

Both parties agree that the rental property is 2 bedrooms and 2 bathrooms. The Agents testified that while the rental unit is 2 bedrooms, it is not very large and so the rent for the rental unit was listed at $2,295.00. The Agent testified that a new tenant for the unit was found as of April 7, 2025 at a rental rate of $2,300.00. The new tenancy agreement was not entered into evidence.

The Tenants testified that they went to the Landlord's website to see if their unit had been rented. The Tenants testified that on February 28, 2025 their unit was listed for rent on the Landlord's website for $2,620.00 per month. The Tenants entered into evidence a quote sheet for the rental property stating that the rent is $2,620.00 per month. The quote sheet states that the rental unit is 2 bedrooms, 2 bathrooms and is 710 square feet. The Tenants testified that the rental unit is 2 bedrooms, 2 bathrooms and 710 square feet.

The Tenants testified that they checked the Landlord's website again on March 18, 2025 and the Landlords lowered the advertised rental price to $2,595.00 per month. The Tenants entered into evidence a quote sheet for the rental property stating that the rent is $2,595.00 per month.

The Tenants testified that the Landlord tried to advertise the rental property for significantly more than they paid which is why the Landlord did not find a new tenant for March 2025.

Analysis

Loss of quiet enjoyment of the rental unit

Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including rights to freedom from unreasonable disturbance.

Residential Policy Guideline 6 states that a landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable

disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

Based on the testimony of the Tenants and the emails to the Landlord entered into evidence, I find that the Tenants have proved that they contacted the Landlord about their neighbour's loud TV noise 5 times between November 6, 2024 and January 9, 2025. I find that the Landlord responded to the November 6, 2024 email and the January 9, 2025 email but did not respond to the intervening emails. However, the January 9, 2025 email did not address the Tenants concerns, but told them to continue using the email address the unanswered emails were sent to.

The Landlord's Agents testified that warnings were issued to the neighbor, but the Landlord did not communicate these actions to the Tenants. I find that while the Landlord took some steps to address the noise issue, the lack of communication and failure to resolve the problem resulted in ongoing disturbances to the Tenants. I find that the Landlord's failure to address the neighbour noise issue and communicate with the Tenants breached the Tenant's right to freedom from unreasonable disturbance under section 28(b) of the Act.

In accordance with Residential Tenancy Branch Policy Guideline #16, to be awarded damages under section 67 of the Act the party claiming compensation must establish all four of the following points:

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

Failure to prove one of the above points means the claim fails.

As stated above, I find that the Tenants have proved that the Landlord breached section 28(b) of the Act. I am satisfied that as a result of the Landlord's breach, the Tenant's lost value in their tenancy agreement as the bedroom adjoining the noisy neighbour was not usable when the neighbour's TV was on.

The Tenants claim to recover 3 months of rent from November 2024 to January 2025. I find that the Tenants have not proved, on a balance of probabilities, that they are entitled to recover three full months of rent. I find that the Tenants continued to reside in the rental property from November 2024 to January 2025 and so received use and benefit of the rental property. I therefore find that it would be inappropriate to refund all of the rent paid for that period of time.

I find that the Tenants have not proved the value of the loss to their tenancy agreement. The Tenants testified that the square footage of the rental property was 710 square feet,

but did not testify to the square footage of the bedroom that was not usable, so I am not able to determine what the value of their loss was.

Residential Tenancy Policy Guideline 16 states that nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. I find the Tenants have not proved the value of their loss, but have proved that there was an infraction of the legal right under section 28(b) of the Act. I award the Tenants $200.00 per month for the claimed period of November 2024 through January 2025, the period of time the Tenants complained to the Landlord and the Landlord did not adequately address the noise complaints. The Tenants are granted a monetary award of $600.00.

I find that the Tenants have not proved, on a balance of probabilities, that they ever informed the Landlord in writing that the construction noise was an ongoing issue as no written communications indicating same were entered into evidence. I find that the Tenants have not proved that the Landlord was aware of their concerns. The Landlord cannot be held responsible for breaches in quiet enjoyment that they were not informed of. Given the lack of documented complaints regarding construction noise, the Tenants' claim for compensation due to construction disturbances is dismissed, without leave to reapply.

Incentive re-payment

Under section 45(3) of the Act states that if a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

Based on the evidence submitted for consideration, I find that the Tenants did not inform the Landlord that they believed the noise issues breached a material term of their tenancy agreement before the Tenants provided the Landlord with their notice to end tenancy. The Tenants were therefore not permitted under section 45(3) of the Act to end their fixed term tenancy early.

Under section 45(2) of the Act, a tenant is not permitted to end a fixed term tenancy before the end of the fixed term. I find that Landlord's breach of section 28(b) of the Act did not permit the Tenants to breach their fixed term tenancy agreement under the Act.

The Incentive Addendum clearly sets out that the if the Tenants end the fixed term Tenancy prior to the end of the fixed term, the Tenants must pay back all incentives provided to them. Based on the testimony of both parties I find that the incentive provided to the Tenants include free rent for August 2024 in the amount of $2,300.00 and free parking for 6 months valued at $600.00.

In accordance with the Incentive Addendum, I find that since the Tenants ended the fixed term tenancy agreement before the end of the fixed term in contravention of

section 45 of the Act, the Tenants must repay the incentive granted to them totalling $2,900.00.

Liquidated damages

Policy Guideline #4 states that a liquidated damages clause is a clause in a tenancy agreement where the parties agree in advance the damages payable in the event of a breach of the tenancy agreement.

If a liquidated damages clause is determined to be valid, the tenant must pay the stipulated sum even where the actual damages are negligible or non-existent. Generally, clauses of this nature will only be struck down as penalty clauses when they are oppressive to the party having to pay the stipulated sum.

The Tenants signed the tenancy agreement addendum and initialled the liquidated damages clause in the addendum. I find that the liquidated damages clause was clearly and carefully laid out in the tenancy agreement addendum and detailed the consequences of breaking the fixed term tenancy agreement to the parties. I find that the quantum of liquidated damage clause is reasonable and that the Tenants are responsible for paying the liquidated damages as they breached their fixed term tenancy and ended this tenancy before the end of the fixed term. I award the Landlord $1,150.00 in liquidated damages.

Moving fee

Section 7 of the Regulation to the Residential Tenancy Act (the Regulation) sets out the non-refundable fees that landlords may charge tenants. Section 7(1) of the Act states that a landlord may charge any of the following non-refundable fees:

> (a)direct cost of replacing keys or other access devices;
>
> (b)direct cost of additional keys or other access devices requested by the tenant;
>
> (c)a service fee charged by a financial institution to the landlord for the return of a tenant's cheque;
>
> (d)subject to subsection (2), an administration fee of not more than $25 for the return of a tenant's cheque by a financial institution or for late payment of rent;
>
> (e)subject to subsection (2), a fee that does not exceed the greater of $15 and 3% of the monthly rent for the tenant moving between rental units within the residential property, if the tenant requested the move;
>
> (f)a move-in or move-out fee charged by a strata corporation to the landlord;

(g)a fee for services or facilities requested by the tenant, if those services or facilities are not required to be provided under the tenancy agreement.

I find that the Tenants have confused sections 7(1)(e) and section 7(1)(f) of the Regulation. I find that section 7(1)(e) does not apply to the current application as the Tenants are not moving between rental units within the rental property. The Tenants moved out of the rental property entirely.

I find that under section 7(1) of the Act the Landlord is entitled to charge the Tenants a move out fee charged by a strata corporation to the Landlord. The Landlords did not supply any documentary evidence showing that the Landlord was charged a move out fee by a strata corporation. I therefore find that the Landlord has not proved, on a balance of probabilities that they were permitted to charge the Tenants a move out fee under section 7(f) of the Regulation. This claim is dismissed without leave to reapply.

Loss of rental income and utility payment

Under section 7 of the *Act* a landlord or tenant who does not comply with the Act, the regulations or their tenancy agreement must compensate the affected party for the resulting damage or loss; and the party who claims compensation must do whatever is reasonable to minimize the damage or loss.

Pursuant to Policy Guideline 16, damage or loss is not limited to physical property only, but also includes less tangible impacts such as loss of rental income that was to be received under a tenancy agreement.

Policy Guideline 5 states that where the landlord or tenant breaches a term of the tenancy agreement or the Residential Tenancy Act the party claiming damages has a legal obligation to do whatever is reasonable to minimize the damage or loss. This duty is commonly known in the law as the duty to mitigate. This means that the victim of the breach must take reasonable steps to keep the loss as low as reasonably possible. The applicant will not be entitled to recover compensation for loss that could reasonably have been avoided. The duty to minimize the loss generally begins when the person entitled to claim damages becomes aware that damages are occurring.

Policy Guideline 3 states that attempting to re-rent the premises at a greatly increased rent will not constitute mitigation. Pursuant to Policy Guideline 5, if I find that the party claiming damages has not minimized the loss, I may award a reduced claim that is adjusted for the amount that might have been saved.

Policy Guideline 3 states that the damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a

general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.

I find that the Landlord has not proved, on a balance of probabilities, that the rental unit was advertised for rent at a rental rate of $2,300.00 or lower. The only advertisement provided by the Landlord shows a range of available units from 1-2 bedrooms listed between $2,295.00 and $2,850.00 per month. I accept the Tenants' undisputed testimony that the rental unit was 710 square feet. I find it unlikely that a two bedroom unit in the mid range of available square footage would be listed at the lowest rent of the range available for 1-2 bedroom units. I accept the Tenants testimony that the quotes entered into evidence are for the rental property. I find that as of February 28, 2025, the Landlord was advertising the rental property for rent at a rate of $2,620.00 and that by March 18, 2025 the Landlord had reduced the advertised rental rate to $2,595.00 per month.

I find that the landlord chose to attempt to rent the unit at a rate higher than specified in the tenancy agreement. I find that this action constitutes a failure to mitigate their damages. The Landlord's claim for loss of rental income and utilities for March 2025 is dismissed without leave to reapply as the Landlord failed to mitigate their damages for March by attempting to rent the property for an amount substantially higher than that paid by the Tenants. Had the Landlord advertised the rental property for $2,300.00 per month they may have found a new tenant for March 2025.

Filing fees

As the Tenants were successful in their application for dispute resolution, I find that the Tenants are entitled to recover their $100.00 filing fee from the Landlord, pursuant to section 72 of the Act.

As the Landlord was successful in their application for dispute resolution, I find that the Landlord is entitled to recover the $100.00 filing fee from the Tenants, pursuant to section 72 of the *Act.*

Security Deposit

Based on the testimony of both parties and the notice to end tenancy entered into evidence, I find that this tenancy ended on February 28, 2025.

Section 38(1)(a) and section 38(1)(b) of the Act require the landlord to either return the Tenants' security deposit or file for dispute resolution for authorization to retain the deposit, within 15 days after the later of the end of a tenancy and the Tenants' provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award, pursuant to section 38(6)(b) of the Act, equivalent to double the value of the security deposit.

The Landlord filed this application for dispute resolution on March 13, 2025, less than 15 days after the end of this tenancy. I find that the landlord made an application for dispute resolution claiming against the security deposit pursuant to section 38(1)(a) and 38(1)(b) of the *Act.*

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain the entirety of the Tenants' security and pet damage deposits totaling $2,300.00 plus accrued interest of $97.59. Interest was calculated from June 6, 2023, the date the deposits were due, to the date of this Decision, May 27, 2025.

I order the Monetary Order awarded to the Landlord to be set-off against the Monetary Order awarded to the Tenants.

Conclusion

I grant the Landlord a Monetary Order in the amount of **$1,052.41** under the following terms:

Monetary Issue	**Granted Amount**
a Monetary Order to the Landlord for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act	$4,050.00
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	$100.00
authorization to retain all or a portion of the Tenant's security deposit, pet damage deposit and accrued interest in partial satisfaction of the Monetary Order requested under section 38 of the Act	-$2,397.59
A Monetary Order to the Tenants for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act	-$600.00
authorization to recover the filing fee for this application from the Landlord under section 72 of the Act	-$100.00
Total Amount	**$1,052.41**

The Landlord is provided with this Order in the above terms and the Tenant(s) must be served with **this Order** as soon as possible. Should the Tenant(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. Monetary Orders that are more than $35,000.00 must be filed and enforced in the Supreme 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: May 27, 2025

Residential Tenancy Branch