

DECISION

Introduction

This hearing dealt with applications from both parties.

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 damage to the rental unit or common areas under sections 32 and 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

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

- a Monetary Order for the return of their Security Deposit 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

The Tenants acknowledged service of the Proceeding Package and a portion of the Landlord's evidence. It is not disputed that the Landlord did not serve the Tenant's with the following files added to the Residential Tenancy Branch Dispute Resolution System:

- Monetary_Worksheet.pdf(1.56 MB, May 5, 2025)
- Invoice_JNJ.jpg (167.05 kB, May 5, 2025)
- Statement_landloard.docx (18.52 kB, May 5, 2025)

The Tenant's acknowledge receipt of all other evidence.

In reviewing the information that was not served, I find that the Invoice and Monetary Worksheet are consistent with the initial application, reflecting a reduced amount claimed. As such, I find it appropriate to accept this evidence, as it does not raise any issues of procedural fairness. However, I find it likely that the Landlord's statement included information to which the Tenants should have been given an opportunity to respond. Therefore, in accordance with the Residential Tenancy Branch Rules of Procedure, I decline to accept this statement into evidence.

The Landlord confirms receipt of the Proceeding Package and all associated evidence, except for the 58-page package titled *Disclosure.pdf*. The Tenants stated that they sent the package via FedEx and provided a tracking number. According to the Tenants, the tracking information confirms that the package was delivered on May 13, 2025, though a signature was not required upon delivery. As the contents of the 58-page package were determined to be irrelevant to the decision no further consideration of this issue is necessary.

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 Tenancy began on November 15, 2023, with a Security Deposit of \$1425.00 paid at the onset of the Tenancy. Rent at the end of the tenancy was \$2850.00 per month. The Tenancy Agreement states that the Tenants were responsible for paying 80% of the utilities.

The Tenancy ended on January 31, 2025.

A move-in condition inspection report was submitted, bearing the signatures of both parties. The Tenants state that the Landlord completed the report independently and that they relied on the Landlord's representations regarding the condition of the rental unit without actively participating in the inspection. The Tenants further submit that the unit required repairs at the time of move-in. The Landlord disputes this account and asserts that the inspection was conducted jointly with the Tenants.

A move-out condition inspection was scheduled, and both parties attended. However, prior to the completion of the inspection, the interaction became contentious. The Tenants submit that they believed the Landlord was not acting in good faith and was attempting to identify damages to retain the security deposit. As a result, the Tenants left before the inspection was completed.

The Tenants submit that they provided the Landlord with their forwarding address on February 24, 2025.

On March 10, 2025, the Landlord filed for dispute resolution, seeking compensation for the following:

- Utilities:
 - BC Hydro (December 5 to January 3): \$201.00
 - Fortis BC: \$229.33
 - Water bill: \$148.53
 - WiFi: \$94.00
- Furniture Payment:
 - \$358.00
- Damages:
 - \$21,315.00
- Loss of use
 - \$1000.00

Utilities

The Landlord submitted copies of the following invoices.

- Water Bill (October 1, 2024 to December 31, 2024): \$185.66
- BC Hydro (December 5, 2024 to January 6, 2025): \$167.93
- BC Hydro (January 7 to February 4, 2025): \$131.19
- Fortis BC (November 22 to December 18, 2024): \$197.04
- Fortis BC (December 19, 2024 to January 22, 2025): \$279.47
- Fortis BC (January 23 to February 20, 2025): \$371.87

The Tenant submitted a spreadsheet of payments made during the tenancy.

Repairs

The Landlord initially provided an estimate quoting \$36,357.30 to complete repairs, with the initial request for compensation being \$23,000.00. The Landlord submitted an invoice and adjusted their claim for repairs at the amount of \$21,315.00.

The invoice for repairs submitted by the Landlord includes the following breakdown of charges:

- Flooring and carpet removal, disposal, and replacement: \$8,000.00
- Interior patching and painting: \$9,250.00
- Interior cleaning ("deep clean"): \$950.00
- Exterior cleaning: \$975.00
- Kitchen counter repair and epoxy touch-up: \$1,125.00

The Landlord submitted several photographs of the rental unit and claimed damages.

The Landlord submits that the house was built in 2021 and that she sought to minimize costs by obtaining two quotes for the repair work. The Landlord noted that some interior painting had been done since 2021, but did not specify the locations or timing of the work.

With respect to cleaning, the Tenants submit that they left the rental unit in a clean condition—cleaner, in their view, than at the start of the tenancy. The Tenants provided photographs of the unit taken at move-out in support of this claim.

The Landlord submits that an Addendum to the tenancy agreement required the rental unit, including the carpets, to be professionally cleaned at the end of the tenancy. She states that this condition was not met. The Landlord further submits that there were stains on the carpet that could not be removed using cleaning products recommended by the construction company, and that the only viable option was to remove and replace the carpeting. The Tenants dispute this, stating that the stains predated their tenancy and were caused by the Landlord's pet.

The Landlord also claims that there were well over 100 holes in the drywall in the entrance area. In contrast, the Tenants submit that any damages were either preexisting or the result of normal wear and tear.

On March 18, 2025, the Tenants filed for dispute resolution, requesting the return of double their security deposit. It is not in dispute that the Tenants provided the Landlord with their forwarding address on February 24, 2025.

Analysis

Is the landlord entitled to a Monetary Order for unpaid utilities and furniture?

Utilities

Section 67 of the Act states that if damage or loss results from a party's failure to comply with the Act, regulations, or a tenancy agreement, the Director may determine the amount of compensation and order the responsible party to pay it.

The tenancy agreement clearly states that the Tenants are responsible for 80% of the utility costs. The Tenants did not provide proof of payment for the utilities in question. Accordingly, I find that the Landlord is entitled to the following amounts:

- Hydro: \$201.00
- Natural Gas: \$229.33
- Water: \$148.53
- WiFi: \$94.00

In total, the Landlord is entitled to \$672.86 in unpaid utilities pursuant to Sections 26 and 67 of the Act.

Furniture

The Landlord is seeking compensation for the Tenants' alleged failure to complete payment for furniture they had agreed to purchase. However, an agreement to purchase furniture is separate from the tenancy agreement and does not fall within the scope of the Residential Tenancy Act. As such, I do not have jurisdiction to consider this matter. The Landlord's application for compensation related to the furniture is dismissed, without leave to reapply.

Is the landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Section 37(2) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Under section 67 of the Act, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Section 21 of the Residential Tenancy Regulations states that in dispute resolution proceedings, a condition inspection report completed is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

The Tenants submit that they did not participate in the initial condition inspection and that the report does not accurately reflect the condition of the rental unit at the start of the tenancy. However, the Tenants signed the condition inspection report voluntarily and have not provided a preponderance of evidence to demonstrate that the report is inaccurate. Therefore, I find that the initial condition inspection report is a reliable record and will be used to assess whether damages occurred during the tenancy.

Based on the evidence before me, the testimony of the parties, and applying the standard of a balance of probabilities, I find that the Landlord has established a valid claim for damage to the rental unit and/or common areas. The following findings form the basis of my decision.

Carpet and Flooring

The Landlord has established that the carpet sustained stains and that the laminate flooring incurred some minor damage.

However, the Landlord chose to replace all damaged flooring and did not demonstrate that less costly repairs or alternative approaches could not have remedied the damages. Therefore, I find that the Landlord failed to prove that they took reasonable steps to minimize costs related to the required flooring repairs.

While I find the Landlord has provided sufficient evidence that the Tenants did not comply with Section 37 of the Act, the \$8,000.00 claimed for flooring replacement is excessive and conflicts with the obligation under Section 7(2) to minimize loss or costs. Accordingly, I find it reasonable to award nominal damages under Sections 37 and 67 of the Act in the amount of \$1,000.00 for repair and cleaning of the flooring.

Therefore, the Landlord is entitled to a Monetary Order for compensation for damage or loss under the Act, regulation, or tenancy agreement pursuant to Section 67 of the Act, in the amount of \$1,000.00.

Painting and Patching

It is undisputed that the Tenants hung photos, and the Landlord has provided evidence of a significant number of small holes resulting from this.

Policy Guideline 1 states that tenants are responsible for repairing walls where there is an excessive number of nail holes, or where large nails, screws, or tape have caused damage to the walls.

The Landlord claims \$9,250.00 for filling and repainting the rental unit. I find this amount excessive, given that the Landlord did not provide evidence that the rental unit had been freshly painted prior to the tenancy, nor does the extent of wall damage shown in the evidence justify such a high cost.

While I find the Landlord has demonstrated that the Tenants did not comply with Section 37 of the Act, the \$9,250.00 claimed is unreasonable and contradicts the obligation under Section 7(2) to minimize loss or costs, especially considering the lack of evidence regarding prior painting and the relatively limited damage to the walls.

Therefore, I find it reasonable to award nominal damages under Sections 37 and 67 of the Act in the amount of \$500.00 for the repair and painting of the walls.

Countertops

The Landlord is claiming \$1125.00 for the repair to the kitchen countertops.

I find that the Landlord provided sufficient evidence to prove that the countertops required repair, and that the repairs completed were reasonable to minimize the loss or damage being claimed.

The Landlord is granted \$1125.00 for repairs to the kitchen countertops under section 37 and 67 of the Act.

Conclusion

As indicated above, I find the Landlord is 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, in the amount of \$2625.00 for repairs required as a result of the tenancy.

Is the landlord 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, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Cleaning

Subsection 37(2)(a) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 6(3)(a) states that a term of a tenancy agreement is not enforceable if the term is inconsistent with this Act or the regulations. Therefore, I find that the requirement within the Tenancy Agreement to have the rental unit professionally cleaned is not enforceable.

Upon reviewing the photographs provided by the Landlord I find that the interior and exterior of the rental unit was left reasonably clean in accordance with the Act.

For the above reasons, the Landlord's application for a Monetary Order for cleaning the rental unit or common areas under sections 32 and 67 of the Act is dismissed, without leave to reapply.

Loss of use

The Landlord is requesting \$1,000.00 in compensation for loss of use of the rental unit due to their inability to move in because of damages. As noted above, I find that the Landlord has not established that the extent of the repairs undertaken was necessary to address what were minimal damages. Furthermore, all damages were cosmetic in nature and would not have impacted the habitability of the rental unit.

Therefore, the Landlord's application for \$1,000.00 in compensation for loss of use of the rental unit is dismissed, without leave to reapply.

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

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it. As the forwarding address was provided on February 24, 2025, and the landlord made their Application on March 10, 2025, I find that the landlord did make their application within 15 days of the forwarding address being provided.

Under section 72 of the Act, I allow the Landlord to retain the Tenant's security and pet damage deposits in partial satisfaction of the above noted monetary award.

Is either party entitled to recover the filing fee for this application from the Landlord?

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

As the Tenant was unsuccessful in their application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

I grant the Tenant a Monetary Order in the amount of **\$1,879.82** under the following terms:

Monetary Issue	Granted Amount
authorization for the Landlord to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
a Monetary Order for the Landlord for damage to the rental unit or common areas under sections 32 and 67 of the Act	\$2625.00

a Monetary Order for unpaid utilities under section 26 and 67 of the Act.	\$672.86
authorization to the Landlord to retain the Tenant's security deposit, calculated with interest, in satisfaction of the Monetary Order requested under section 38 of the Act	-\$1473.04
Total Amount	\$1,879.82

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.

The Landlord's application for a Monetary Order for unpaid rent under section 67 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: June 3, 2025

Residential Tenancy Branch