

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 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 Tenant's Application for Dispute Resolution under 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

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

Landlord's Application

The Tenant testified that he received the Proceeding Package and evidence from the Landlord on March 31, 2025 via registered mail, adding that he had sufficient time to review these materials.

I find that the Tenant was served with the Proceeding Package in accordance with section 89 of the Act and with the evidence in accordance with section 88 of the Act.

The Landlord's husband, QW, stated that the Landlord received the Tenant's response evidence via registered mail. While QW was not sure of the exact date that these materials were received, he stated that the Landlord had sufficient time to review them. However, while the Tenant stated that he had submitted a total of nine pictures to the Residential Tenancy Branch (RTB), QW stated that the Landlord had only received eight. However, QW stated that the Landlord was willing to move forward with the hearing.

I find that the Landlord was sufficiently served with the Tenant's response evidence in accordance with section 71 of the Act.

Tenant's Application

QW testified that the Landlord received the Proceeding Package and evidence from the Tenant via registered mail. While QW was not sure of the exact date that these materials were received, he stated that the Landlord had sufficient time to review them. QW stated that the Landlord only received eight pictures from the Tenant and no other evidence. However, I reviewed the additional evidence that the Tenant had submitted to the RTB with QW, and he confirmed that the Landlord was willing to move forward with the hearing.

I find that the Landlord was served with the Proceeding Package in accordance with section 89 of the Act and was sufficiently served with the evidence in accordance with section 71 of the Act.

The Tenant and the Landlord agreed that no response evidence was provided by the Landlord.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

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

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

Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?

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

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 parties agreed that this tenancy began on February 10, 2025, with a monthly rent of \$3,000.00, due on the 10th day of the month, with a security deposit in the amount of \$1,500.00. The parties also agreed that the tenancy ended on March 10, 2025, and that \$942.50 of the Tenant's security deposit was returned to him by the Landlord on March 20, 2025.

The Tenant and QW agreed that a move in inspection was conducted on February 10, 2024 and a copy of the move in condition report was provided to the Tenant.

The parties also agreed that a move out inspection was conducted on March 10, 2025, which was attended by the Tenant.

QW stated that the move out condition report was not filled out in the Tenant's presence as the Landlord and the Tenant agreed verbally that the unit was dirty and needed professional cleaning. QW stated that the Tenant agreed to the Landlord hiring cleaning services and for deductions to be made from his security deposit to cover the cost of these services. QW explained the Tenant signed the move out condition report after this discussion, but the report was filled out after the Tenant had already signed it. QW stated that the move out condition report was provided to the Tenant on March 17, 2025 by email.

The Tenant stated that the Landlord informed him during the move out inspection that she wanted further cleaning, although the Tenant took the position that not much cleaning was needed. However, the Tenant stated that he did not agree that professional cleaners could come clean the unit and did not agree to a \$557.50 deduction for cleaning services from his security deposit, adding that he left the unit in the same state as when he moved in. The Tenant stated that he did not realize that the Landlord will add information to the move out condition report after the Tenant had already signed it.

QW confirmed that the \$557.50 deduction was added to the move out condition report after it has been signed by the Tenant, as the Landlord could only fill out that information once the cost of the cleaning services was known.

QW testified that the Tenant provided his forwarding address to the Landlord by registered mail, sometime between March 20 to March 25, 2025. The Tenant testified that he provided his forwarding address to the Landlord, either via text message or registered mail, sometime between March 15 to March 20, 2025. Neither party was sure of the exact date the forwarding address was provided. However, the Tenant submitted a copy of the RTB-41 form, which was dated March 21, 2025 and noted that "[the Tenant] mailed registered mail to the landlord in the afternoon of March 21, 2025."

QW stated that when the Tenant moved out, the kitchen cabinets were not clean. The Landlord provided pictures to demonstrate the state of the cabinets, which QW said were taken by one of the professional cleaners who cleaned the unit. The pictures provided showed dirt and stains on the cabinet doors as well as the inside of the cabinets.

The Landlord also submitted pictures of the bedroom and living area walls in the unit, which shows marks of varying degrees. QW stated that the professional cleaners were able to get rid of these marks.

QW referred to the pictures submitted by the Tenant as evidence to note that those pictures were not detailed and only provided an overview of the condition of the unit, as the kitchen cabinets, oven and fridge were all closed in the pictures. However, QW added that in the picture of the kitchen that the Tenant submitted, stains on the cabinet under the sink were still visible. Moreover, QW stated that the bathroom picture submitted by the Tenant showed that the grout between the tiles was black in some places due to mold, which had to be brushed out by the professional cleaners. QW further added that as can be seen in the Tenant's pictures, the floors in the living room and the small bedroom were wet. QW stated that this left watermarks behind, which also had to be cleaned by the professional cleaners.

The Landlord had JL, one of the professional cleaners that cleaned the unit, attend the hearing as a witness. JL confirmed that he cleaned the unit on March 14, 2025. He further stated that he took pictures of the kitchen cabinets and sent these to the Landlord as they were dirty and oily. JL also confirmed that most of the time spent cleaning the unit was spent on the kitchen and the bathroom.

QW testified that the total cost of having the unit cleaned was \$557.50. The Landlord provided a receipt dated March 14, 2025 in support. The receipt noted that the move out deep cleaning cost \$494.00, while the sofa steam washing cost \$63.50, for a total of \$557.50.

The Tenant took the position that the pictures submitted by the Landlord do not represent the state of the unit on March 10, 2025, when the Tenant moved out. The Tenant further added that the stains in the kitchen and the bathroom were there when he moved in, adding that he cleaned the unit as much as he could. He further stated that the floors were wet in some of the pictures he provided as he had mopped the floor that same morning and it was not completely dry yet.

I note that the move in inspection submitted by the Landlord, which was signed by the Tenant, does not make note of any stains in the kitchen or the bathroom at the beginning of the tenancy.

Analysis

Is the Landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

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

- the tenant 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 landlord acted reasonably to minimize that damage or loss

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.

I accept the Landlord's picture evidence which shows that the kitchen cabinets and walls in the unit were not left reasonably clean by the Tenant. I also accept that the Tenant's pictures, specifically that of the kitchen and the bathroom, also show that further cleaning was needed. Furthermore, the Landlord provided convincing evidence in the form of JL's testimony, who confirmed the dirty/oily state of the kitchen and added that the majority of the cleaning was needed in the kitchen and the bathroom. JL also confirmed that the cleaning services took place on March 14, 2025, only a few days after the Tenant had vacated the unit.

While the Tenant took the position that the stains in the kitchen and the bathroom were there when he moved in, this is not supported by the move in condition report, which does not note any such issues, and which was signed by the Tenant.

Having considered all of this evidence from the parties, I find that the Tenant did not leave the unit reasonably clean and therefore did not comply with section 37(2) of the Act. Moreover, I find that this caused a loss to the Landlord, as she had to have the unit professionally cleaned, which she provided the \$557.50 receipt for. I also find that the Landlord acted reasonably to minimize her loss.

I note that the receipt submitted by the Landlord states that the move out deep cleaning cost \$494.00 while the sofa steam washing cost \$63.50. Given that the issue of the sofa steam washing was not brought up during this hearing, I find that the Landlord suffered a loss of \$494.00 due to the Tenant not complying with section 37(2) of the Act.

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.

Therefore, 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 \$494.00.

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

Under section 72 of the Act, I allow the Landlord to retain \$494.00 from the security deposit amount they are currently withholding, in full satisfaction of the monetary amount.

Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?

Section 38(4) allows a landlord to retain from a security deposit if, at the end of the tenancy, the tenant agrees in writing that the landlord may retain an amount to pay a

liability or obligation of the tenant.

If the landlord does not have the tenant's agreement in writing to retain all or a portion of the security deposit, section 38(1) 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, the landlord must either repay the security deposit or make an application for dispute resolution claiming against the security deposit.

Section 38(6) of the Act states that if the landlord does not return the security deposit or file a claim against the tenant within fifteen days, the landlord must pay the tenant double the amount of the security deposit.

QW and the Tenant agreed that any discussions regarding further cleaning of the unit took place verbally. The parties also agreed that while a deduction from the security deposit for the cleaning services is noted on the condition inspection report, this was not filled in when the Tenant signed the move out condition report. Therefore, I find that the Landlord did not have the Tenant's agreement in writing to keep any portion of the security deposit.

Based on the RTB-41 form submitted by the Tenant, which states that it was registered mailed on March 21, 2025, I find that the Landlord is deemed to have received the Tenant's forwarding address on March 26, 2025. Based on the RTB's records, the Landlord applied for dispute resolution on March 27, 2025, within 15 days of receiving the Tenant's forwarding address. Therefore, the Landlord does not owe the Tenant double the amount of the security deposit withheld under section 38(1) of the Act.

QW and the Tenant agreed that the Landlord returned \$942.50 of the Tenant's \$1,500.00 security deposit to the Tenant on March 20, 2025. On March 20, 2025, the Landlord would have owed the Tenant an interest of \$39.20, such that the total security deposit to be returned to the Tenant would have been \$1,539.20. Since that the Landlord has already returned \$942.50 to the Tenant, the remaining balance is \$596.70. Of this amount, I have authorized the Landlord to retain \$494.00 in full satisfaction of the monetary award. As such, the Landlord is ordered to pay the Tenant the difference, in the amount of \$102.70.

Therefore, I award the Tenant a Monetary Order for the return of a portion of their security deposit under sections 38 and 67 of the Act, in the amount of \$102.70.

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

As both the Landlord and the Tenant were partially successful in their respective applications, I find that both are entitled to recover the \$100.00 filing fee paid for their applications under section 72 of the Act. However, if both parties are awarded \$100.00

against the other, the result is that neither gains anything monetarily. Therefore, I find that awarding these filing fees serves no purpose.

Conclusion

I grant the Tenant a Monetary Order in the amount of **\$102.70** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act	\$102.70
Total Amount	\$102.70

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. 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: June 27, 2025

Residential Tenancy Branch