

## **DECISION**

### **Introduction**

This hearing dealt with cross applications including:

The Landlord's March 30, 2025, 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 May 13, 2025, Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

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

The Tenant and Landlord attended the participatory teleconference hearing on June 6, 2025, to provide sworn testimony and refer to evidence.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

The Parties testified that they accepted service of the others' Notices of Dispute Resolution for their respective disputes.

### **Service of Evidence**

The parties testified that they accepted service of the others documentary evidence as described and were advised to notify me if either party referred to a piece of documentary evidence during the hearing that neither party had in their possession.

I find that I can use the parties' documentary evidence in my decision making because I am satisfied that the Landlord and Tenant served their evidence on each other as required by the Act and Rules of Procedure.

## **Preliminary Matters**

I updated the Address of the Rental unit as provided on the Tenant's application because the parties agreed that the Tenant occupied as condo unit in a newly constructed multi-unit residential property. The Landlord testified that they have owned this rental unit since the building was opened in 2021.

## **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order for unpaid rent?
- Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?
- 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?
- Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested?
  - Or is the Tenant entitled to a Monetary Order to recover any portion of this deposit?
- Who is entitled to recover the filing fee for this application from the other?

## **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.

Evidence was provided showing that this tenancy began on June 1, 2024, with a monthly rent of \$2,900.00, due on the first day of the month, with a security deposit in the amount of \$1,450.00. A copy of this fixed term 12-month tenancy agreement was provided as evidence.

The parties agreed that:

- The rental unit was furnished
  - The parties disagreed about whether the Landlord's evidence of a written inventory of furnishing was included and provided to the Tenant at the start of this tenancy.

- There had been an issue with the heating system at the Strata building in November 2024 and the Landlord responded by providing the Tenant two portable heaters and also paid a portion of the Tenant's hydro bills to compensate them for the costs of the heaters.
  - The Tenant testified that this heating issue was resolved in November 2024 but continued to ask for reductions of rent related to the one time heating issue – they also argued as seen in the Landlord's Evidence 10 that heating remained an issue until this tenancy ended.
- The Tenant originally gave Notice by email on November 13, 2025, that they would vacate December 15, 2025, however, the Tenant did not vacate the rental unit until February 28, 2025.
- The Tenant vacated after given Notice by email on February 25, 2025:

Please be informed that we will leave your apartment on Mar 01, 2025 and I will hand back all your keys to you on that day.

You may relist your apartment right now and start showing it to any desired tenants.

- The Landlord secured a new tenant in the rental unit from March 15, 2025.
- The Tenant served their forwarding address to the Landlord on March 23, 2025.
- The Landlord has not yet returned any portion of the security deposit to the Tenant.
- The Tenant accepts the Landlord's \$50.00 charge for a replacement FOB.
- The Tenant accepts the Landlord's \$357.00 charge from a Renovation company (Inv 564) for necessary drywall and door repairs after this tenancy ended.

The Landlord referred to a Monetary Order Worksheet (RTB #37) dated March 31, 2025, to summarize the remainder of their financial claim for compensation against the Tenant, including:

- \$1,403.23 for lost rent between March 1 – 14
- \$377.42 loss of difference in monthly rent
- \$630.00 for Property Management Costs to secure a replacement tenant
- \$220.50 for Cleaning Costs
- \$109.86 for replacement of garbage can and iron that had been part of unit furnishing

The Landlord is claiming the costs of lost rent and difference of rent for their new tenants from March 15, 2025, onwards because these new tenants only pay \$2,750.00 a month and the Landlord should have otherwise expected to receive \$2,900.00 a month until May 30, 2025, as part of this tenancy. The Landlord provided a copy of this new tenancy agreement to confirm the revenue from this new tenancy agreement.

The Landlord is also claiming the professional costs for securing a new tenant so that they could minimize costs of lost rent which they otherwise would have charged to the Tenant in this dispute. They referred to a professional invoice 1047 in the amount

claimed. The Landlord also referred to documentary evidence provided of communication efforts related to relisting this rental unit and securing new tenants.

The Tenant denied responsibility for the costs of lost rent and the difference in rent and argued that they were entitled to vacate because of ongoing issues with the heating system at the residential property.

The Tenant also denied responsibility for the Landlord's \$630.00 tenant placement charge, arguing that this a charge the Landlord would have otherwise expected to incur.

The Landlord stated that this was not correct because the Landlord typically has tenants from summer to summer which allows them to personally secure replacement tenants because the summer is the Landlord's quiet period at work. The Landlord reiterated that they had to hire a professional to secure new tenants to mitigate the costs of lost rent which otherwise would have been charged to the Tenant named in this dispute.

The Landlord claimed \$220.50 as costs for cleaning the rental unit because as seen in the pictures and video provided of the rental unit when this tenancy ended, the Tenant failed to leave the unit reasonably clean. The Landlord stated that the cleaning bill was reasonably low because the Tenant appeared to have cleaned the appliances.

The Tenant denied responsibility for cleaning, arguing that they hired a cleaner but acknowledged that they did not provide any sort of receipts, claiming that the cleaner they hired was freelance.

The Landlord claimed costs of \$109.86 to replace a garbage can and an iron from Costco, as seen in the receipt provided. The Landlord referred to a documented inventory of furnishings provided with this furnished rental unit and highlight that the Tenant failed to return a number of items at the end of this tenancy. The Landlord stated that they are only claiming costs for the larger items that were taken by the Tenant during this tenancy.

The Tenant denied taking a garbage can and or iron and argued that they purchased their own garbage can for use during this tenancy and so they took it with them when this tenancy ended. The Tenant also denied being provided with the Landlord inventory of furnishings when this tenancy started.

The Landlord argued that the Tenant would not have agreed to rent a furnished unit that was missing a garbage can.

## **Analysis**

When two parties to a dispute provide equally possible accounts of events or circumstances related to a dispute, the party making the claim has responsibility to provide evidence over and above their testimony to prove their claim as required by RTB Rule of Procedure 6.6.

### **Is the Landlord entitled to a Monetary Order for unpaid rent?**

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

Based on the evidence before me, I find that the Landlord has established a claim for unpaid rent owing for March 1 – 14 in the amount claimed of \$1,403.23 because monthly rent had been \$2900.00 and the Landlord was only able to secure a new tenant from March 15, 2025.

I also find that the Landlord is entitled to the difference in rent (\$2,900 - \$2750.00 = \$150) that they otherwise could have expected to receive from this Tenant between March, April and May 2025 because the Tenant signed a fixed term tenancy agreement.

$\$150\text{May} + \$150\text{April} + \$75.00\text{March} = \$375.00$

I provide this award to the Landlord because as seen in the February 25 Notice from the Tenant below, I find that they failed to give Notice under 45(3) of the Act, or even qualify to give Notice under that section because the parties agreed that the Strata heating issue was resolved at the end of November 2024.

Please be informed that we will leave your apartment on Mar 01, 2025 and I will hand back all your keys to you on that day.

You may relist your apartment right now and start showing it to any desired tenants.

I note the Landlord's response to this February 25, 2025, email where they wrote:

I won't be accepting 3 days notice and will have to go legal way as per tenancy act. I will relist my apartment and claim for my loss until I find my new tenant.

I therefore find that the Tenant failed to end their tenancy as required by section 45 of the Act and that the Landlord is therefore entitled to compensation for lost rent during this time period as required by RTB Policy Guideline 3 which set outs that the purpose of awards for rent, is to make Landlord's whole, as well as RTB Policy Guideline 30.

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 unpaid rent under section 67 of the Act, in the amount of \$1,778.23.

### **Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?**

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

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

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

More information about this 4-Part test is provided in RTB Policy Guideline 16.

As noted above, the Tenant consented to the charge of \$357.00 for wall repair and \$50.00 for the damaged FOB. I therefore award the Landlord with requested \$407.00 in compensation under 64.2 of the Act because of this agreement.

I find that the Landlord established on the balance of probabilities that they are entitled to the requested compensation for \$220.50 for cleaning because:

- I find that the Tenant failed to leave the rental unit reasonably clean as required by section 37 of the Act as confirmed by the Landlord since:
  - The Landlord provided a video of the unit
  - The Landlord provided photos of the rental unit
  - The Landlord provided a professional invoice in the amount claimed

For the above reasons, the Landlord's application for a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act succeeds in the amount claimed of \$627.50.

$\$407.00 + \$220.50 = \$627.50$

**Is the Landlord entitled to a Monetary Order for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act**

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

More information about this 4-Part test is provided in RTB Policy Guideline 16.

I find that the Landlord successfully established their claim for compensation on a balance of probabilities because:

I found that the Tenant violated the Act and tenancy agreement when they ended the tenancy agreement early causing the Landlord to incur the verified costs of \$630.00 for professional support in securing a replacement Tenant.

I find that this cost of \$630.00 was verified because the Landlord provided a professional invoice.

I also find that this charge was reasonable because the Landlords actively mitigated their losses under section 7(2) of the Act and Part 4 of the Test above because a one-time charge of \$630.00 is significantly cheaper than an ongoing charge of \$2900.00 for monthly rent which otherwise could have been charged to the Tenant under RTB Policy Guideline 30.

I award the full amount claimed of \$109.86 for replacement garbage can and iron because the parties agreed that the Tenant rented a furnished unit. Where the Tenant argued that they never received a documented inventory of furnishings within the rental unit, I find that the Landlord established on the balance of probabilities that this documentation was provided to the Tenant and likewise, that a garbage can and iron were missing at the end of this tenancy for a furnished rental unit.

I therefore find that the Tenant is responsible for the costs to replace these missing items under 32(3) of the Act.

For the above reasons, the Landlord's application for a Monetary Order for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act succeeds in the amount claimed of \$739.86.

$\$630.00 + \$109.86 = \$739.86$

**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.

The parties agreed that the Tenant provided their forwarding address on March 23, 2025, and so I find that the Landlord satisfied the requirements of section 38(1) of the Act when they applied to the RTB on March 30, 2025, to retain this security deposit.

I therefore authorize the Landlords under section 38 and 72 of the Act to retain the full value of the Tenant's \$1,450.00 security deposit as partial compensation for the Landlord's successful claim for rent.

**Who is entitled to recover the filing fee for this application from the other?**

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.

The Tenant was not successful in their application and so I dismiss their request to recover the filing fee from the Landlord under Section 72 of the Act and do not provide leave to reapply.

**Conclusion**

I grant the Landlord a Monetary Order in the amount of **\$1,795.59** under the following terms:

<b>Monetary Issue</b>	<b>Granted Amount</b>
a Monetary Order for unpaid rent under section 67 of the Act	\$1,778.23
A Monetary Order for Damage to Common areas under section 67 of the Act	\$627.50
A Monetary Order for Damage or loss under section 67 of the Act	\$739.86
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	-\$1450.00
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$1,795.59</b>

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.

The Tenant's application is dismissed in its entirety, 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 9, 2025

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Residential Tenancy Branch