

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

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

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- a Monetary Order for the return of all or a portion of their security deposit and/or pet damage 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

Landlord T.P., Oth S.H., Oth C.M. attended the hearing for the Landlord.

Tenant L.C., Oth C.H., Oth S.F. attended the hearing for the Tenant.

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

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Tenant(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

### **Service of Evidence**

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

### **Issues to be Decided**

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

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit?

Is the Tenant entitled to a Monetary Order for damage or loss under the Act, regulation or tenancy agreement?

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

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

### **Facts and Analysis**

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

The Landlord provided a copy of the month to month tenancy agreement. It has a start date of November 1, 2025. However, both parties agree that the Tenant obtained keys and began to move their belongings into the rental unit on October 16, 2025. As such, I find that the Tenancy started on October 16, 2025. The \$2400.00 monthly rent is due on the first day of each month.

The tenancy agreement shows a \$1200.00 security deposit and a \$300.00 pet damage deposit. Both parties agree that the Landlord has not returned any portion of the deposits to the Tenant. The tenancy agreement was signed, by both parties, on September 6, 2024.

Both parties agree that neither a move in, nor move out, Condition Inspection Report (CIR) was completed. The Landlord affirms the move out CIR was not completed because the Tenant refused to attend despite multiple opportunities being given. Both parties agree that an informal walkthrough was conducted by the parties in the first week of September 2024, prior to the day the parties signed the tenancy agreement, but that no CIR was completed.

Both parties agree that the Tenant received a One Month Notice to End Tenancy in the first week of December. A copy of said Notice was provided. It is signed December 3,

2024, with a move out date of January 31, 2025. The Tenant confirms not disputing the Notice.

Both parties agree that the Tenant vacated the rental unit early on January 8, 2025, due to a request from the Landlord as repair work, due to water damage, needed to be completed.

**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

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the Landlord has failed to establish a claim for damage to the rental unit or common areas.

The Landlord provided a copy of a Monetary Order Worksheet as follows:

Floor damage	\$1500.00
Cleaning house	\$200.00
Total Monetary Order Claim	\$750.00

The Landlord affirms that the Tenant gouged the hardwood floors which required repair. The Landlord affirms the damage was not present at the start of the tenancy, and provided a copy of a signed letter from a cleaner stating the rental unit was cleaned on October 15, 2204, and that at that time she, “did not notice any deep scratches in the hardwood floor in the living room.” However, the Landlord was unable to present any photographs of the floor dated any earlier than one year before the hearing. The Tenant denies damaging the floors.

I find the Landlord has provided insufficient evidence, in the absence of the required move in Condition Inspection report, that the damage to the floor was caused during the tenancy or caused by the Tenant. As such, I decline to award compensation for the damaged floors.

Regarding cleaning, the above letter from the cleaner states the Landlord, “hired me again to clean the house, after the tenant moved out, on January 11, 2025. This letter does not mention the cleaning fee or any monies she received for cleaning the rental unit. Although the Landlord affirms paying the cleaner \$200.00, no further evidence was provided to support this.

In the absence of an invoice, receipt, or similar stating the amount paid for cleaning, I find the Landlord has provided insufficient evidence of the value of their loss due to cleaning. As such, I decline to award compensation.

**Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit?**

Section 23 of the Act states that the landlord and tenant together must inspect the condition of the rental unit on the day the tenant is entitled to possession of the rental unit or on another mutually agreed day and that the landlord must complete a condition inspection report in accordance with the regulations.

Section 24(2) of the Act states that the right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

Section 1 of the Act defines “pet damage deposit” as money paid, or value or a right given, by or on behalf of a tenant to a landlord that is to be held as security for damage to the residential property caused by a pet. Policy Guideline further clarifies that the pet damage deposit is to be held by the landlord as security for damage caused by a pet.

As the Landlord did not complete the move CIR in accordance with Act, I find they extinguished their right to claim against the security deposit for damage to the residential property. However, I find the Landlord remained entitled to claim against the security deposit for cleaning costs.

As the Landlord did not complete the move CIR in accordance with Act, I find they extinguished their right to claim against the pet damage deposit for damage to the residential property. Because pet damage deposits are solely for be held for damage caused by a pet, per section 38 of the Act, the Landlord was obligated to return the Tenant’s pet damage deposit within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing.

As the Landlord is not entitled to claim against the pet damage deposit, and a monetary award is not being granted to the Landlord, I find the Tenant is entitled to a monetary order for the entirety of their security deposit and pet damage deposit. Furthermore, as the Landlord failed to comply with inspection report requirements, and did not return the

pet damage within 15 days, I find they contravened section 38(1) of the Act, and the Tenant is entitled to double the value of their pet damage deposit per section 38(6) of the of the Act.

I find that the Tenant is entitled to a monetary award in the amount of \$1800.00, for the return of the total security deposit and double the pet damage deposit.

**Is the Tenant entitled to a Monetary Order 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

The Tenant provided the following Monetary Order Worksheet:

Violation of RTA Section 32(1) 2 months +	Lindsay Carroll	\$4,800
Use of Hydro. BC Hydro. Violation of RTA +	Lindsay Carroll	\$188.91
Missed work due to illness	Lindsay Carroll	\$1,984.53
Moving costs (from 76 Nelson)	Lindsay Carroll	\$500.00
Cost incurred to my current landlords for +	Cheryl Brandt	\$480.00
Total monetary order claim		\$7,953

The Tenant affirms requesting the \$4800.00 as compensation for the two months of rent. He affirms this is because of problems with the rental unit including a collapsed ceiling section, due to a water leak, mould and rat issues. However, the Tenant, when asked, was unable to articulate both how the requested amount was calculated, and how he suffered damage or loss equivalent to \$4800.00, or any amount. No further breakdown of the amount was provided, nor were invoices, receipts, or similar. As such I decline to award compensation.

The Tenant affirms having an agreement with C.M. that the Landlord would take over the hydro payments due to excessive hydro costs because of ongoing repairs. The Tenant provided a copy of the following unsigned, undated letter:

The damage is extensive and I've spoken with my Insurance Company and filed a claim. It will take a couple of days for the Adjuster to assess the damage. Then it will be another 2 or 3 days to have the restoration crew come in and they will bring in 20+ fans to heat up house. It will not be livable.

As you have conveyed to us that you have another place to rent and are moving some furniture there, would it be possible to move into your new place so we can begin work and I will reimburse you:

\$ 500. (Rent you paid from Dec 26-31 ( $\$77.42 \times 6 \text{ days} = \$465.$ )

\$1500. (Damage Deposit)

\$2000.

I will also have the electrical put in my name to cover hydro costs from today forward.

Of note is the statement that reads, "I will also have the electrical put in my name to cover hydro costs from today forward." Both parties agree that C.M. gave this to the Tenant. C.M. affirms it was an offer, not an agreement, and it was conditional on the Tenant vacating the rental unit by December 31, 2024. The Tenant denies it was not an agreement and that it is was conditional.

The tenancy agreement shows the Tenant is responsible for electricity costs. Section 14(2) of the Act states that 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. As the letter provided by the Tenant is unsigned by either party and has the statement, "would it be possible to move into your new place...", I find this letter, and the conversation around it, to be an offer and a conversation, not an actual agreement or amendment to the tenancy agreement. As such, I decline to award the Tenant compensation related to electricity bills.

The Tenant affirms missing work due to illness caused by mould in the rental unit and, in support of this, provided a copy of a doctor's note, dated January 1, 2025, that states the Tenant shall not work until for two weeks, until January 15, 2025, due to illness. This doctor's note did not state what the illness was, nor what it was caused by. The Tenant did not provide any further evidence indicating what the illness was, or it's cause. As such I am unable to determine that his illness was caused by any action/or inaction of the Landlord, or anything related to the tenancy. As such, I decline to award compensation.

The Tenant requests compensation for \$500.00 in moving fees and \$480.00 of January 2025 rent he paid his new landlord for an early start to the tenancy. I decline to award compensation for these for two reasons.

First, regardless of the specific circumstances—whether the tenancy ended due to a valid One Month Notice, or a mutual agreement related to repair work—the tenant was required to vacate the unit by January 31, 2025. This timeline was already established and undisputed, meaning the move was inevitable. As such, the Tenant cannot shift

responsibility for moving expenses to the Landlord. The Act does not impose liability for moving costs in these scenarios unless explicitly agreed to, which no evidence has been provided that the Landlord did.

Second, both parties agree that the Landlord received no rent from the Tenant for January 2025. Additionally, the Tenant affirms that his new monthly rent is \$1850.00, \$550.00 less than that of the tenancy in question. The \$480.00 the Tenant paid to his new landlord for the period of January 8 to January 31 of 2025 is less than what the Landlord hear today would have been entitled to, had the Tenant stayed in the rental unit. As such, I find the rent the Tenant paid to his new landlord to not be a loss.

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

As the Landlord was not successful in this application, the Landlord's application for authorization to recover the filing fee for this application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

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

Although, under section 72 of the Act, I may order payment or repayment of a fee under section 59 (2) (c), I decline to do so. The Tenant's application for authorization to recover the filing fee for this application from the Landlord under section 72 of the Act is dismissed, without leave to reapply.

**Conclusion**

I grant the Tenant a Monetary Order in the amount of **\$1800.00** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit under sections 38 and 67 of the Act	\$1800.00
<b>Total Amount</b>	<b>\$1800.00</b>

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 in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 12, 2025

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Residential Tenancy Branch