

## **DECISION**

### **Introduction**

This hearing dealt with Cross Applications including:

The Tenant's May 23, 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 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

The Landlord's June 13, 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
- 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 July 29, 2025, teleconference was attended by the Tenant and the Landlord's Agent, H.L., a Property Manager.

Both parties had the opportunity to provide sworn testimony and to refer to evidence.

### **Preliminary Matters**

The Landlord reduced their claim for unpaid rent/utilities from a total amount of \$2,949.76 down to \$1,430.00 testifying that the Landlord is only seeking compensation for one month of rent. I allowed this amendment under section 64(3)(c) of the Act to the Landlord's claim because it was a reduction.

The Landlord request authorization to consult with their accounting team to allow them time to compile an account statement for this tenancy which could confirm that the Tenant allegedly failed to pay rent to the Landlord for December 2023.

The parties agreed that the Tenant paid rent by Etransfer during this tenancy to the Property Manager as Landlord, on behalf of the Numbered Company that owes the industrial property.

I declined the Landlord's request to provide additional evidence, and I also denied their subsequent request for an adjournment under the Act, because as set out in RTB Rule of Procedure 6.6 it is the responsibility of the Applicant (Landlord in this dispute) to establish their claim on the balance of probabilities to establish their claim.

Likewise, I declined the request for adjournment under RTB Rule of Procedure 7.9 because I found that an Adjournment would not bring the parties any closer to resolution and could be considered prejudicial to the Tenant who continued to rent and occupy the rental unit in question until March 31, 2025, despite the allegation of not paying rent for December 2023.

I gave leave to the Tenant under RTB Rule of Procedure 3.18 and 3.19 to upload proof of serving the Landlord by email on March 16, 2025, with their Notice to End Tenancy because this document as provided by the Tenant, included initial proof of serving their forwarding address on the Landlord.

The Landlord disagreed with my allowing the Tenant to provide this late evidence.

I nevertheless found it appropriate to receive late proof of this evidence because the Landlord agreed that they received written Notice from the Tenant that this tenancy was ending and they also agreed that they authorized the Tenant to serve documents on them by email.

Because the Tenant provided proof that they served their Notice on the Landlord using the Landlord's email address for service, I found it unnecessary to require that the Tenant also provide subsequent proof to the Landlord that they had sent that same email on March 16, 2025.

The parties agreed that the Landlord returned the full value, plus interest calculated on the Tenant's pet damage deposit, to the Tenant on June 9, 2025.

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

The Landlord agreed that they received Notice of this Dispute by email from the Tenant on May 26, 2025.

The Landlord stated that they served Notice of their Dispute on the Tenant by email on June 13, 2025, which the Tenant stated they received.

I therefore find that both parties served each other as required by the Act, Regulations (section 43 and 44) and Rules of Procedure and that I can proceed to hear the merits of their disputes.

## **Service of Evidence**

The parties agreed that the Tenant served their evidence on the Landlord by email on July 14, 2025, by email and that this email was received by the Landlord.

The Landlord stated that copies of their documentary evidence were included in the email that was sent to the Tenant on June 13, 2025.

I therefore find that I can use the parties' documentary evidence in my decision making because I am satisfied that it was served on each other as required by the Act, Regulations, and RTB Rules of Procedure 6.6.

## **Issues to be Decided**

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 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

Is the Landlord entitled to:

- a Monetary Order for unpaid rent 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

## **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 residential property is an industrial property that includes a bachelor suite (rental unit) that was occupied by the Tenant between June 15, 2023, and March 31, 2025.

The parties agreed that this tenancy ended after the Tenant gave written Notice.

The parties also agreed that there was an RTB-51 in place that permitted service upon the other by email according to this document which was signed by the Tenant and the

Property Manager on February 20, 2024, as Agent for the Numbered Company that owns the industrial property.

The Tenant provided evidence of their written Notice to End Tenancy under section 45 of the Act that was sent by email to the Landlord on March 16, 2025. This Notice provided their forwarding address under section 39 of the Act as well.

The Landlord denied receiving the Tenant's forwarding address prior to May 29, 2025, and argued that the Landlord applied to the RTB to retain the security deposit and returned the pet damage deposit within required deadlines under the Act and Regulations.

The Tenant stated that they provided their forwarding address to the Landlord on multiple occasions in multiple formats, the first time being the March 16, 2025, Notice that ended their tenancy.

Regarding the Landlord's claim for compensation for rent, the parties agreed that the Landlord issued a 10-Day Notice in February 2024, showing that two months of rent was owed on February 1, 2024, and that the amount of arrears specified on this Notice was then paid by the Tenant.

The Landlord argued that this was an error and alleged that the Tenant actually owed 3 months of rent at the time the Notice was issued and so this means the Tenant still owes 1 month of rent.

## **Analysis**

The applicant is required by RTB Rule of Procedure 6.6 to establish their claim on the balance of probabilities to be successful.

### **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.

The parties agreed that the Tenant was served a 10-Day Notice to End Tenancy for Unpaid rent dated February 15, 2024, showing that \$2,760.00 (2 months' rent) was owed in rent on February 1, 2024, and the parties agreed that the Tenant then paid these arrears.

I find that the Landlord failed to establish on the balance of probabilities that they are entitled to payment of rent because:

- a) They testified that they were owed 3 months' rent when this February 15, 2025, Notice was issued.

- b) No verifiable proof was provided that the Landlord was owed 3 months' rent as alleged when this Notice was issued alleging that rent for December 2023 was never paid.
- c) As seen in RTB rule of Procedure 6.6, applicants (the Landlord) are responsible for establishing their claim on the balance of probabilities.

Based on the evidence before me, I find that the Landlord failed to establish their claim for compensation for rent for December 23, 2023, because:

- Under section 7(2) of the Act, Landlords are required to mitigate losses if they suspect non-compliance with the Act or Tenancy agreement and yet the Landlords allowed this tenancy to continue until March 31, 2025, despite the Tenants alleged failure to pay a month's rent.
- The Landlords did not prepare or provide an account statement for the Tenant to confirm payment history during this tenancy.

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.

I therefore dismiss the Landlord's claim for Monetary Order for unpaid rent under section 67 of the Act because they failed to establish on the balance of probabilities that they were due rent.

I do not give leave to the Landlord to reapply for this claim because I find that a professional property management company should be familiar with their obligations under the Act and RTB Rules of Procedure.

**What should happen to the Tenant's security deposit? Is the Tenant entitled to double the value of their pet damage deposit?**

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 March 16, 2025, to the Landlord as part of the Tenant's Notice to End Tenancy, I find that the 15-day deadline of section 38(1) of the Act commenced on March 31, 2025, when the parties agreed that this tenancy ended.

This meant that the Landlord who returned the Tenant's pet damage deposit on June 9, 2025, and then applied to the RTB to retain the Tenant's security deposit on June 13, 2025, failed to satisfy their timeline specific obligations under section 38(1) of the Act.

As seen in clause 11 of section G of RTB Policy Guideline 17:

11. If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit. Where the landlord has to pay double the security deposit to the tenant, interest is calculated only on the original security deposit amount before any deductions and is not doubled.

No evidence was provided by either the Landlord or the Tenant that the Tenant authorized the Landlord in writing to retain any portion of their deposits as compensation for losses associated with this tenancy.

I therefore find it appropriate under section 38(6) of the Act to Order that the Tenant is entitled to double the value plus interest of their security deposit and pet damage deposit from the Landlord.

Because the parties agreed that the Landlord has returned \$690.00 to the Tenant, as the value of their pet damage deposit, I will subtract this amount from the larger award to the Tenant.

More specifically, I reviewed the Landlord's documentary evidence and find they provided proof that they returned a total of \$719.52 to the Tenant on June 9 which included the full value of the Pet Damage deposit plus \$29.52 in interest as required by section 4 of the Regulations.

I consulted the Online RTB Deposit Interest Calculator to document only the amount of interest owed on the security deposit as of the day of the hearing before me. In doing so, I find that the Tenant's \$690.00 security deposit has earned \$30.64 in interest as at the date of this hearing.

I therefore order that the Tenant is entitled to \$2,100.64 for return of their security and pet damage deposit under section 38 of the Act, the Regulations, and calculated in accordance with the guidance provided in RTB Policy Guideline 17.

$$\$690.00 \text{ (SD)} + \$690.00 \text{ (PDD)} = \$1,380.00$$

$$\$1,380.00 \times 2 = \$2,760.00 + \$30.64 \text{ (interest on SD only)} = \$2,790.64$$

$$\$2,790.64 - \$690.00 = \$2,100.64$$

*Please note that I only included the base value of PDD returned in my calculation above because the Landlord's obligation to pay interest was not included in my calculation since the Landlord's evidence showed that interest was paid when the value was returned to the Tenant on June 9 and interests on deposits does not get doubled.*

The Landlord's claim for authorization to recover any portion of the Tenant's deposits is dismissed, without leave to reapply.

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

The Tenant was successful in this application and so I authorize them to recover the filing fee for this application from the Landlord under section 38 of the Act.

The Landlord was not successful in this application and so I dismiss their request to recover the filing fee for this application from the Tenant under section 72 of the Act.

**Conclusion**

I grant the Tenant a Monetary Order in the amount of **\$2,200.64** under the following terms:

<b>Monetary Issue</b>	<b>Granted Amount</b>
A Monetary Order for return of their Security Deposit under section 38 of the Act	\$2,100.64
Authorization to recover the filing fee under section 72 of the Act	\$100.00
<b>Total Amount</b>	<b>\$2,200.64</b>

The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord 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.

I dismiss the Landlord’s application in its entirety and do not give 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: July 31, 2025

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Residential Tenancy Branch