

## **DECISION**

Dispute Codes      MNDCT, MNSD / MNRL-S, LRSD

### Introduction

Both parties made Applications for Dispute Resolution (the Applications) under the *Residential Tenancy Act* (the Act), which were crossed to be heard simultaneously.

The Tenant seeks:

- A monetary order for compensation for damage or loss under the Act, the *Residential Tenancy Regulation* (the Regulation), or tenancy agreement under section 67 of the Act; and
- A Monetary Order for the return their security deposit and pet damage deposit under sections 38 and 67 of the Act.

The Landlord seeks:

- A Monetary Order for unpaid rent under sections 26 and 67 of the Act; and
- Authorization to retain all or a portion of the Tenant's security deposit and pet damage deposit under section 38 of the Act;

A first hearing dealing with these Applications was adjourned due to time constraints. The parties concluded their oral submissions at a second hearing, though I allowed both parties the opportunity to submit additional written evidence and submissions regarding rent payments made towards the end of the tenancy.

This Decision should be read in conjunction with the interim decisions dated May 23 and July 18, 2025 where the issues of service of records, adjournment, and allowing additional written evidence and submissions were addressed.

### Preliminary Issue - Amendment of the Tenant's Application

The total amount sought in the Tenant's Application was listed as \$19,950.33. As set out on the Tenant's Monetary Order Worksheet this was comprised of nine claims, one of them being a claim for \$14,450.00 described as "retroactive rent abatement". Elsewhere in the Tenant's written submissions in a section titled "compensation claimed" reference was made again to the \$14,450.00 claimed for a retroactive rent

abatement, though an “alternative” claim was put forward which comprised of seven losses totalling \$14,121.59. These seven losses, unlike the \$14,450.00 figure were particularised and detailed calculations were provided regarding these claims.

During the first hearing, I informed the Tenant that they must indicate which claim they wished to pursue, rather than leave it to me to decide for them as they had suggested.

The Tenant indicated they would move forward with the claim for \$14,121.59, in addition to the remaining ones on the Monetary Order worksheet. Given these claims were clearly set out in the Application, this was the lower of the two amounts put forward by the Tenant, and the Landlord appeared fully aware of the particulars of the claims, under section 64(3)(c) of the Act I amended the Tenant’s Application to amend the total amount sought from \$19,950.33 to \$19,621.92.

#### Service of additional evidence and written submissions

As noted above, in the interim decision dated July 18, 2025 I allowed both parties the opportunity to submit additional written evidence and submissions on rent payments from September 2024 after the conclusion of the second hearing.

The Tenant provided their submissions to the Residential Tenancy Branch (the Branch) on August 7 as well as proof of service which indicates their submissions were sent to the Landlord by email on August 1. The Landlord provided their additional submissions to the Branch on August 5, and a record of an email indicating these submissions were sent to the Tenant on the same date.

From the above, I find both parties served their additional submissions in accordance with section 88 of the Act and within the timeframes set out in the July 18 interim decision. I therefore will admit the additional submissions of both parties to consideration.

The Tenant provided a written response to the Landlord’s submissions and a record indicating that a copy of the response was sent to the Landlord on August 22. Based on this, I find the Tenant’s response was served to the Landlord as required and I admit it to consideration. The Landlord did not provide a written response to the Tenant’s submissions.

### Issues to be Decided

- Is the Tenant entitled to a Monetary Order for loss under the Act, the Regulation, or the tenancy agreement?
- Is the Landlord entitled to a Monetary Order for unpaid rent?
- Is the Tenant entitled to a Monetary Order for the return of some or all of their deposits, or, is the Landlord entitled to retain some or all of them?

### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this Decision.

The parties agreed on the following regarding the tenancy:

- The tenancy began on May 15, 2024 on a month-to-month basis.
- Rent was \$1,700.00 per month due on the first day of the month throughout the tenancy.
- A security deposit of \$850.00 and a pet damage deposit of \$400.00 were paid by the Tenant on May 12, 2024, which the Landlord retains.
- There is a written tenancy agreement, a copy of which was entered into evidence.
- The Tenant vacated the rental unit on February 19, 2025.
- The residential property is a building containing three separate dwellings; the rental unit, which is in the lower part of the property, a suite above (the Upper Unit), and a loft suite where the Landlord resided during the tenancy.

### *Related disputes*

During the hearings, previous disputes involving the parties that were dealt with by the Branch were referred to, which are summarized here for context.

The Landlord issued a Four Month Notice to End Tenancy for Landlord's Use of Property dated November 22, 2024 (the Notice) to the Tenant which had an effective date of March 31, 2025. The Tenant received the Notice on November 27 and disputed it on December 24. The hearing took place on January 20, 2025 and the arbitrator

dealing with the dispute rendered their decision in writing on February 19 whereby they granted the Tenant's application, and the Notice was cancelled.

Records of previous decisions relating to the Upper Unit were also provided as evidence, were referred to during these proceedings, and are summarised as follows.

In a decision dated November 7, 2024, the tenant of the Upper Unit's application for emergency repairs for health and safety reasons was dismissed without leave to reapply. The arbitrator found that it was undisputed that the roof had been repaired as of October 25, 2024 and that other repair items involving water damage, potential asbestos remediation, holes in the siding, rats, silverfish, did not qualify as emergency repairs under section 33(1) of the Act.

In a December 10, 2024 decision, the tenant of the Upper Unit was issued an order for the Landlord to have qualified professionals attend the Upper Unit to assess rodent and silverfish infestation, water ingress, mould, and the potential presence of asbestos.

In a decision dated February 14, 2025 (the February 2025 Decision), the tenant of the Upper Unit was awarded a Monetary Order for \$19,736.59 which was made up of an \$18,000.00 retroactive rent abatement and other losses, such as the costs of having reports prepared and insurance deductibles. In their decision the arbitrator refers to "do not occupy" orders for the Upper Unit issued by the municipality as well as unauthorized construction.

### *The Tenant's claims*

#### *Exposure to toxic mould - \$9,000.00*

The Tenant took the position that the Landlord failed to ensure the rental unit complied with health, safety and housing standards, specifically in relation to moisture and mould.

The Tenant seeks a retroactive rent abatement of \$950.00 per month for the period May 15, 2024 to February 19, 2025. An amount of \$9,000.00 is sought, though I note the relevant period is nine months and five days so by my calculations, a figure of \$8,853.57 would be more accurate after pro rating rent for February.

I was referred to the February 2025 Decision where the arbitrator authorized a 100% rent abatement for the tenant of the Upper Unit until the Landlord brought that unit into compliance with the health, safety, and housing standards required by law.

I was also referred to a mould assessment report dated October 31, 2024 prepared after an inspection of the Upper Unit, as well as accompanying images. It was argued that the residential property has a shared heating system which draws air into the rental unit from the Upper Unit, so it would also be affected by mould. It was argued that mould can be hidden and invisible so its effects may not be apparent to the naked eye.

The Tenant affirmed that they noticed extensive moisture in the rental unit as soon as they moved in. There was mould on the bathroom tiles which they cleaned off, and surfaces in the kitchen were peeling. The issue was reported to the Landlord via text message. I was referred to records of messages dated November 24, 2024 where the Tenant is seen to mention the level of humidity being “outrageous” and that they had to empty their dehumidifier every two days.

I was also referred to a six-page anonymized letter purporting to be from a previous tenant of the Upper Unit where they outline grievance ranging from issues communicating with the Landlord, suspected presence of rodents, water leaks, and mildew and mould on the kitchen walls.

The Tenant indicated that the presence of mould in the rental unit caused them to feel sick, have migraines, and become lethargic.

*Silverfish infestation - \$1,200.00*

The Tenant testified that they noticed the presence of silverfish in the rental unit early in the tenancy and notified the Landlord of this verbally. The tenant in the Upper Unit had similar issues and arranged for a pest control company to attend the residential property, which the Landlord paid for.

The Tenant noticed silverfish in cupboards, sinks, on their clothing, in their bed and living room, and “literally everywhere”. They purchased traps with their own money, but these did not have a significant impact on the issue. The matter was reported to the Landlord via text message, copies of which were provided as evidence in addition to photographs appearing to show silverfish in both the rental unit and the Upper Unit.

The amount sought is based on another decision issued by an arbitrator of the Branch dated June 5, 2024, a copy of which was provided as evidence.

*Repairs not completed - \$200.00*

Per the Tenant, two out of the four electrical outlets in the kitchen of the rental unit did not work. This was reported to the Landlord by text message on September 28, 2024 as well as through in person conversations and to the Landlord's property manager. The matter was resolved on January 20, 2025. Compensation is sought based on the inconvenience of having to move electrical appliances round the kitchen during the affected period.

Further, the kitchen sink, bathroom sink, and bathtub did not drain properly. The Tenant affirmed that they raised the issue in writing by text message on December 4, 2024, and that it had also been raised verbally before this. The faucet in the kitchen also had poor water pressure. The issue with the kitchen sink was resolved on January 29, 2025 when a plumber made adjustments, though the other issues remained unresolved.

The amount sought is based on another Branch decision dated January 3, 2024 relating to a dishwasher with draining issues.

*Cancelled utility services - \$1,075.20*

Cable and internet are included in monthly rent. From September 3, 2024, these services were cut off without notice after the utility provider connected services to the Upper Unit, which inadvertently took away the connections to the rental unit. The Landlord was unwilling to remedy the situation by having an additional line to the residential property set up after an appointment with a technician from the utility provider could not go ahead and had to be rescheduled.

Attempts to use a Wi-Fi booster from the Upper Unit's internet did not work. This led to the Tenant relying on data from their cellphone, which they would routinely max-out. This meant they could not enroll in online classes or do administrative tasks for their business.

The Tenant initially took the position that they received no rent reduction for the termination of cable and internet services and requested a reduction of 50% of what the Landlord paid for the services. After the Landlord's submissions, it was acknowledged that the Tenant had a reduction of \$68.75 for the months of September and October 2024, though a reduction for the remainder of the tenancy was still sought.

In the Tenant's written submissions provided after the second hearing, they include a copy of a rent receipt for October 2024, as well as records of text messages regarding rent payments and records of electronic transfers to the Landlord's property manager. The Tenant maintains in their written submissions that a reduction was applied to October 2024's rent only.

*Loss of quiet enjoyment - \$1,800.00*

As already noted in this Decision, the Landlord resided in a loft suite on the residential property during the Tenant's occupation of the rental unit. The Tenant took the position that the Landlord would use their patio as a walkway to access their vehicle, which was usually parked at the front of the property despite there being space at the back.

The Tenant affirmed the Landlord used their patio and walked past the front door of the rental unit multiple times per day and on occasions, the Landlord would have no shirt on and looked through the Tenant's window. It was argued that this violated the Tenant's privacy and caused the Tenant's dog to bark, which would then wake the Tenant up.

It was acknowledged from the Tenant's side that there were no provisions for exclusive use of the patio in the tenancy agreement. The matter was brought to the Landlord's attention through in-person discussions and text message correspondence. Images from the Tenant's security camera were also provided as evidence.

*Removal of furnishings - \$300.00*

Per the Tenant, the rental unit was partially furnished and included two bar stools. These stools were present in the rental unit at the start of the tenancy though at the end of August 2024 the Landlord removed them and gave them to the tenant in the Upper Unit, who apparently did not want them in any case.

The Tenant seeks compensation of \$50.00 per month for the affected period. The Tenant did not incur any direct losses as a result of the Landlord's actions, such as the costs of purchasing replacement stools themselves. There was no record of this issue being raised with the Landlord.

*Remainder of rent for February 2025 - \$546.39*

The Tenant withheld rent due February 1, 2025 and then on February 9 they provided notice to the Landlord ending the tenancy on February 19.

The Tenant seeks compensation equivalent to one month's rent under section 50(1) of the Act based on receipt of the Notice, which was issued under section 49 of the Act. Since the Tenant already received partial compensation for the period February 1 to 19, they seek a pro rated payment for the remainder of the month's rent.

*Dehumidifier - \$178.07*

The Tenant argued that because of the excessive humidity in the rental unit they were required to purchase a dehumidifier to deal with the situation. The matter was discussed with the Landlord, and they were told to deal with it on their own. The Tenant provided a record of an online purchase for the appliance, which they still have.

*Damage to personal property - \$475.00*

Per the Tenant, a jacket and a pair of boots purchased in 2024 were damaged by mould in the rental unit. Images of the items were provided as evidence. The Tenant still has the items but maintained they were unusable and could not be cleaned.

*Missed work - \$300.00*

On September 30, 2024, the Tenant took the day off work as the Landlord had told them they had to be at the rental unit to accommodate the visit of a technician from the internet provider, but this was ultimately rescheduled because of a statutory holiday. The Tenant indicated they also had to be present while the technician visited in order to deal with their dog. Since the technician's visit did not go ahead, the Tenant seeks compensation for lost income on September 30.

*Yard maintenance - \$715.00*

The Tenant had a section of the garden at the residential property which was theirs to use exclusively, per the tenancy agreement. The Tenant is a landscaper by trade. The Tenant affirmed that the Landlord asked them to carry out jobs on other areas of the residential property including cutting grass and removing fruit trees.

Whilst there was no specific agreement between the parties about the cost of the work, the Landlord indicated to the Tenant they would pay what is usually charged. The Tenant carried out the work as requested, subcontracted some of the work to an employee of theirs and paid municipal fees for removing garden waste. The Tenant produced an invoice for the work which also included cleaning up the garbage cans

after bears knocked them over, but the Landlord refused to pay. The Tenant seeks to recover compensation for the services rendered.

*Veterinary bills - \$440.75*

The Tenant took the position that their dog was sick during their occupancy of the rental unit because of the presence of mould and then when they vacated, their dog recovered. Two vets carried out blood tests which yielded normal results. Tests screening for any effects from mould were not done due to the significant costs.

*Moving costs - \$791.51*

The Tenant argued that Landlord's pattern of conduct indicated to them that they were not going to do anything about the condition of the rental unit, so they ended the tenancy through their letter of February 9, 2025 and now seek to recover the cost of renting a U-Haul to move from the rental unit.

Whilst they had disputed the Notice, they had raised requests for repairs in the same application, but they were separated from the rest of the claim and only the validity of the Notice was determined. Prior to the letter of February 9, there had been no indication to the Landlord that the Tenant wanted to end the tenancy, nor was there any discussions regarding the withdraw of the Tenant's dispute of the Notice.

*Filing fee for previous dispute - \$100.00*

As already mentioned, the Tenant's previous application where they sought cancellation of the Notice was granted. The Tenant was authorized to withhold \$100.00 from a future rent payment as reimbursement of the filing fee for that application, but since they had vacated the rental unit by the time the decision was issued, there was no opportunity for them to make deductions from rent. The Tenant seeks a Monetary Order for this amount accordingly.

*Return of deposits - \$2,500.00*

The Tenant seeks the return of double their security deposit and pet damage deposit, plus interest. The Landlord has also claimed against the Tenant's deposits in their own Application, so for brevity the issue will be addressed under the Landlord's claim.

The Tenant's claims are summarized as follows:

<b>Item</b>	<b>Amount</b>
Exposure to toxic mould	\$9,000.00
Silverfish infestation	\$1,200.00
Repairs not completed	\$200.00
Cancelled utility services	\$1,075.20
Loss of quiet enjoyment	\$1,800.00
Removal of furnishings	\$300.00
Remainder of rent for February 2025	\$546.39
Dehumidifier	\$178.07
Damage to personal property	\$475.00
Missed work	\$300.00
Yard maintenance	\$715.00
Veterinary bills	\$440.75
Moving costs	\$791.51
Filing fee for previous dispute	\$100.00
Return of deposits	\$2,500.00
<b>Total</b>	<b>\$19,621.92</b>

*The Landlord's response to the Tenant's claims*

The Landlord argued that the Tenant was in the rental unit since mid-May 2024 and there were no issues raised until they met the tenant of the Upper Unit. The Landlord denied being made aware of any mould or effects of mould on the Tenant, such as sickness. They also disputed there was mould in the bathroom at the start of the tenancy.

Whilst the Landlord acknowledged there was a leak in the roof of Upper Unit, they affirmed it was small and was resolved in October 2024.

The Landlord disputed the presence of silverfish in the rental unit was reported to them by the Tenant, though indicated they believed the matter had been resolved when the Tenant charged them for traps and all three suites in the residential property were attended to by pest control experts three times.

The Landlord acknowledged receiving a text message from the Tenant about electrical issues, which they said they would come and fix themselves since they are an electrician. They affirmed it was simply a matter of resetting the breakers.

The Landlord denied receiving any notification regarding any plumbing issues until January 2025. After this, they hired a plumber to resolve any issues.

It was acknowledged by the Landlord that the internet and cable services were cut off to the rental unit as put forward by the Tenant, though it was argued this had nothing to do with them. They believed the Tenant was getting Wi-Fi from the service to the Upper Unit and after the Tenant could not attend a rescheduled appointment with the utility company, they believed the matter was resolved.

The Landlord was of the position the Tenant had already accepted and implemented a \$75.00 rent reduction from September until the end of the tenancy in satisfaction of this issue. The Landlord's written submissions include a copy of a rent receipt for October 2024 outlining rent of \$1,632.00 was received and that \$1,625.00 for November was paid by the Tenant in cash, though no receipt for this month was provided.

The Landlord testified that they did not think the Tenant wanted the internet service any longer when they reminded them of the appointment with the utility company and they said they did not want it.

The Landlord disputed the notion any conversation took place between them and the Tenant about them walking past the rental unit. The Landlord was of the opinion the Tenant understood they would be using the driveway at the front of the residential property to park their vehicle, not the space at the rear. They also disputed ever peering into the windows of the rental unit.

The Landlord agreed that the bar stools were included in the tenancy, and that they removed them from the rental unit as indicated in the Tenant's evidence. The Landlord indicated that from their perspective, the rental unit was given to the Tenant partially furnished at a lower than advertised rent and the parties agreed that furniture would be removed when the Tenant got their own items. However, the Landlord acknowledged the Tenant had not got their own bar stools prior to them taking the ones in the rental unit.

The Landlord denied there was any discussion regarding humidity in the rental unit or about the dehumidifier either by text message or in-person. The Landlord affirmed they never saw the appliance itself, and it was not left behind in the rental unit.

The Landlord reiterated their denial of any presence of moisture in the rental unit and stated they did not see how the Tenant's jacket and boots would become damaged while other items did not.

The Landlord denied discussing the possibility of the Tenant doing yard work for them and took the position they were capable of doing the work themselves if needed. Further, they disputed they should be responsible for the Tenant cleaning up after bears knocked over the garbage.

Regarding the Tenant's claim to recover veterinary costs, they affirmed the Tenant never made them aware of any issues with their dog's health.

The Landlord was of the opinion the Tenant was fighting to stay in the rental unit after disputing the Notice, and disputed they should be held responsible for the Tenant's moving costs.

### *The Landlord's claims*

#### *Unpaid rent*

Per the Landlord, the Tenant provided notice they would be vacating on February 19, 2025 and did not pay rent due February 1. The Tenant provided their notice in a letter dated February 9, which the Landlord acknowledged receiving on February 11. As the Notice was cancelled, the Landlord seeks payment for February's rent as a result, totalling \$1,700.00.

The Tenant took the position that the decision regarding the validity of the Notice had not been made at the time they gave their notice to end the tenancy to the Landlord, so the provisions of sections 50(1) and 51(1) of the Act still applied. This meant the Tenant was entitled to end the tenancy with 10 days' notice and still receive compensation equivalent to one month's rent, which they could obtain by withholding the last month's rent. As a result, the Tenant withheld rent due February 1 and gave notice to end the tenancy on February 9, effective February 19.

#### *Security deposit and pet damage deposit*

The Landlord acknowledged receiving the Tenant's forwarding address in writing on February 11, 2025 in their notice to end tenancy dated February 9. The Tenant indicated the letter was placed in the Landlord's mailbox on February 9.

The Landlord submitted their Application claiming against the security deposit on March 14. The Landlord affirmed they were confused by the Tenant disputing the Notice - which gave them the impression they were fighting to stay in the rental unit - then not paying rent for February and vacating on February 19, then the receiving the decision cancelling the Notice on February 19.

There was no condition inspection report prepared by the Landlord at the start of the tenancy.

The Tenant drew my attention to the request for the return of their security deposit by March 6 – 15 days from when they vacated – and a further demand letter dated March 6 where they reference section 38 of the Act and request double their deposits, plus interest by March 10.

As the Landlord submitted their Application on March 14, it was argued the doubling provisions of the Act applied in this case. It was reiterated that given the Tenant had received a notice issued under 49 of the Act, they sought to rely on the provisions of section 50(1) of the Act which allow them to give 10 days' written notice to end the tenancy on February 19.

### Analysis

Rule 6.6 of the Branch *Rules of Procedure* states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

### **Is the Tenant entitled to a Monetary Order for loss under the Act, the Regulation, or the tenancy agreement?**

Section 7 of the Act provides the basis of claims for compensation relating to breaches of the Act or a tenancy agreement. Section 7(1) states that if a landlord or tenant does not comply with the Act, the Regulation, or the tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Section 7(2) of the Act also requires the claiming party to take reasonable steps to minimize their loss.

In order to be successful in their claim, the applicant must prove on a balance of probabilities that the respondent breached the Act, Regulation, or tenancy agreement,

that this breach caused the applicant to incur a loss, and that they took reasonable steps to mitigate this loss.

As set out in Policy Guideline 16 - *Compensation for Damage or Loss*, a party seeking compensation should present compelling evidence of the value of the damage or loss in question. For example, if a landlord is claiming for carpet cleaning, a receipt from the carpet cleaning company should be provided in evidence.

Also, section 67 of the Act states that if damage or loss results from a party not complying with this Act, the Regulation, or a tenancy agreement, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

I will address the Tenant's claims in turn.

#### *Exposure to toxic mould*

Section 32(1) of the Act sets out that a landlord must provide and maintain residential property in a state of decoration and repair that:

- Complies with the health, safety and housing standards required by law; and
- Having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Based on the provisions of sections 7, 32(1) and 67 of the Act, if a landlord breaches their obligation to maintain and repair a residential property, a tenant could be entitled to compensation. This was clearly the case regarding the Upper Unit as set out in the February 2025 decision where the arbitrator set out their findings that the Landlord breached section 32 of the Act and issued a payment order in favour of the applicant.

The Tenant sought to rely on the February 2025 Decision in their claim for a \$9,000.00 retroactive rent reduction. I find there are issues with the Tenant's claim. Firstly, as set out in section 64(2) of the Act, an arbitrator is not bound to follow other decisions and must make each decision or order on the merits of the case as disclosed by the evidence admitted. Whilst the Landlord and the residential property in the February 2025 Decision are the same this dispute, that decision relates to a different tenancy and a different unit. The evidence before the previous arbitrator also appears to be drastically different to the evidence I was provided for the purposes of this Application.

In the February 2025 Decision, the arbitrator makes frequent reference to evidence they appear to have found persuasive in their decision-making process which includes communications with the municipality, “do not occupy” orders, and records of fines and bylaw infractions. None of these records were provided as evidence under this Application.

Almost all the written evidence related to the issue of mould provided under this Application focuses on the Upper Unit, not the rental unit. The mould assessment report was done following an inspection of the Upper Unit. The air samples referenced in the report appear to have been taken only from the Upper Unit. The report states in the conclusions and recommendations section, “The house requires drying and mold remediation by a qualified contractor. The house must be assessed for hazardous materials such as asbestos as a first step by a WorkSafeBC licensed contractor prior to disturbing any materials.”

I find the use of “house” indicates potential applicability to the entire residential property but given only the Upper Unit was inspected and the limitations section of the report says, “The inspector cannot report on areas or locations in the building that have not been specifically inspected or tested or that were not readily accessible.” I do not give this report significant evidentiary weight regarding the presence of mould in the rental unit, or any effects on the Tenant.

The Tenant did not provide photographic evidence of any mould, though they did provide testimony on this issue which I found to be vague and unconvincing. From the description of the condition of the rental unit provided by the Tenant, I find that the purported toxic mould is more consistent with mould that typically accumulates on bathroom caulking. Per the Tenant’s testimony, this was cleaned off at the start of the tenancy in any case.

Whilst the tenant of the Upper Unit provided test results regarding the presence of mould in their system, the Tenant did not. The Tenant affirmed they had migraines and felt lethargic. Again, I found this testimony to be lacking in precision and uncorroborated by evidence. Had this been an issue during the tenancy, I would expect to see mention in the Tenant’s frequent text message correspondence with the Landlord, which there was not. I am not prepared to make the connection between the Tenant’s alleged symptoms and mould purportedly travelling through an alleged central air system from the Upper Unit without corroborating evidence.

In summary, whilst the Landlord's obligation to repair and maintain applies to the whole residential property, and there has been a finding the Landlord breached this obligation in respect of the Upper Unit, I find the Tenant has failed to establish on a balance of probabilities there is a link between this and the rental unit or that there was any impact upon them that would justify compensation. As such, I dismiss this claim without leave to reapply.

### *Silverfish infestation*

I find a landlord's responsibility under section 32(1) of the Act, as already outlined above, would include dealing appropriately with pest infestations such as silverfish. From the evidence before me, I find the Tenant reported a silverfish issue to the Landlord via text message on November 24, 2024, with a follow-up on December 1, and then through further correspondence to the property manager on December 4. The invoice from a pest control company indicates treatment started with a service on January 21, 2025. It was undisputed there were three visits to the residential property as part of the treatment.

A large portion of the photographic evidence provided by the Tenant was from the Upper Unit, though I find the images from the rental unit show noticeable silverfish activity, but not to the level described in the Tenant's testimony.

Based on the above, I find the Tenant has established the Landlord breached section 32(1) of the Act regarding the presence of silverfish in the rental unit, though I find the compensation sought to be excessive and not supported by the Tenant's evidence. Whilst I was referred to a previous decision of an arbitrator regarding a dispute also involving silverfish, I am not bound by previous decisions and I note the \$500.00 per month deductions from rent authorized in the other decision were to come into effect if the landlord failed to treat a silverfish infestation in accordance with an order made in the same decision, so there seems to be a punitive element to the potential rent reduction in that decision. In this case, I do not find compensation of \$1,200.00 is justified and determine \$150.00 is appropriate, having considered the duration and intensity of the issue as indicated by the evidence before me.

### *Repairs not completed*

I find the Tenant reported the issue of two non-functioning electrical outlets in the kitchen to the Landlord in late September 2024, and then again to the property manager on December 4, along with the plumbing issues. It was undisputed that the electrical

issues and the kitchen sink drainage problem were resolved in late January 2025, but the other plumbing issues were not.

From the above, I find the Landlord breached their obligations under section 32(1) of the Act and that the Tenant has established their claim for compensation. Whilst it is problematic to establish a precise loss in this case since the breaches cause inconvenience rather than a facility being restricted entirely, I find the amount claimed to be slightly excessive given the duration and nature of the effects of the issue at hand. I find compensation of \$150.00 to be appropriate in this case.

### *Cancelled utility services*

Section 27(2) of the Act states that a landlord may terminate or restrict a non-essential service or facility if:

- The landlord gives 30 days' written notice, in the approved form, of the termination or restriction; and
- Reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

Section 65(1)(f) of the Act states that if an arbitrator finds that a landlord or a tenant has not complied with the Act, the Regulation, or a tenancy agreement they may order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

It was undisputed that both cable and internet services are included in rent and that from September 3, 2024 to the end of the tenancy the Tenant no longer had access to these services after an apparent technical issue following installations in the Upper Unit. It was also undisputed that the Landlord did not give 30 days' written notice on the approved form, but there had been at least some deductions from rent in recognition of the termination of the services. From this, I find the Tenant has established they are entitled to a reduction in rent for the affected period.

The amount of rent paid by the Tenant from September 2024 onwards was disputed by the parties during the hearing. From a review of the records of payment provided by both parties and their written submissions, I find the Tenant paid \$1,632.00 for October – a reduction of \$68.00 – and \$1,700.00 for all other months in the relevant period, apart from February 2025 when it was agreed the Tenant did not pay any rent.

The rent receipt for October's rent indicates "minus 68 for internet". From the records of text messages provided by both parties, I find there was no clear agreement on the precise amount of the reduction for both internet and cable, as the parties were waiting for quotes to install the service, and for bills to arrive.

The parties are seen to negotiate a potential deduction for November onwards, though the Landlord is seen to state they can not accept the Tenant's offer. The Landlord asserts in their written submissions that the Tenant paid \$1,625.00 in cash for November's rent, though no receipts for this are provided by either party. The Tenant asserts they paid \$1,700.00. In the absence of a receipt and given the parties did not seem to have reached an agreement regarding the decision, I find on a balance of probabilities that the Tenant paid \$1,700.00 for November's rent.

I find the records of electronic transfers for \$1,700.00 to the Landlord's property manager from December 2024 speak for themselves.

Based on the above, I find the Tenant has already received a rent reduction of \$68.00 for the month of October and no other reductions beyond this. The amount claimed by the Tenant is a total reduction of \$179.20 per month for September 2024 to February 2025. This is based on a quote from a provider for cable and internet. From the records of the Landlord's bills provided as evidence, I find they were paying \$147.35 per month for their services as a baseline.

I find the reduction requested by the Tenant is excessive in this case. The services and facilities are described in the tenancy agreement as simply "cablevision" and "internet". There are no specifics regarding connection speed or number of channels or cable services available. Further, the key issue for determination here is the reduction in value of the tenancy agreement resulting from the termination or restriction of the internet and cablevision service, not the cost of supplying a separate service, which may not be the most cost-effective option. In these circumstances, I find a reduction in value of \$100.00 per month is appropriate.

Under section 65(1)(f) of the Act the Tenant is therefore entitled to a total reduction of \$532.00. This amount is made up of \$100.00 per month for the period September 2024 to February 2025, except for October 2024, where a reduction of \$32.00 is appropriate, given a \$68.00 discount has already been applied.

### *Loss of quiet enjoyment*

The Tenant alleges the Landlord frequently invaded their privacy and peered into the rental unit when they walked past, which resulted in a breach of their right to quiet enjoyment. Section 28 of the Act confirms a tenant's entitlements in this regard which include, but are not limited to, rights to the following:

- Reasonable privacy;
- Freedom from unreasonable disturbance;
- Exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 of the Act; and
- Use of common areas for reasonable and lawful purposes, free from significant interference.

As set out Policy Guideline 6 - *Entitlement to Quiet Enjoyment*, A landlord is obligated to ensure that a tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance but failed to take reasonable steps to correct these. Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

Policy Guideline 6 also clearly outlines that a breach of the entitlement to quiet enjoyment may be the basis for a claim for compensation under section 67 of the Act.

It was undisputed that the patio area outside of the rental unit was not the Tenant's to exclusively occupy under the tenancy agreement and that the Landlord lived in close proximity to the rental unit in their suite at the rear of the residential property. It was also undisputed that access to the rear of the property from the street was done through the patio area. From this, I find the patio area is accurately described as common area and the Landlord would not need to provide notice to enter this space.

Whilst the Landlord would not need to provide written notice under section 29 of the Act to access the patio area, their use of this space must not unreasonably disturb or significantly interfere with the Tenant or infringe on their right to reasonable privacy.

The Tenant's allegations the Landlord would frequently peer into the rental unit on their way past were disputed by the Landlord with testimony I found to be equally as plausible as the Tenant's. Whilst the images from the Tenant's security camera provided as evidence show at least 15 occasions where the Landlord walked past the rental unit, I do not find this unsurprising given the parties live so closely to one another. Whilst some of the images appear to show the Landlord looking towards the property, I find insufficient evidence to connect this with a breach of the Tenant's rights under section 28 of the Act.

The Tenant's submissions indicate that the Landlord knocked on the door of the rental unit on at least three occasions without notice. I find no breach on the Landlord's part here. Under section 29(1)(a) of the Act, there are provisions for landlords to ask for a tenant's permission at the time of entry. A landlord simply does not need permission to knock on the door of a rental unit, though I accept that very frequent occurrences or perhaps those late at night may breach a tenant's rights under section 28 of the Act, but I find that is not the case here. I find three instances of knocking on the door is not overly frequent and from the timestamps of the footage, they happened during reasonable hours. Nothing before me indicated the Landlord ever entered the rental unit contrary to section 29 of the Act during this tenancy.

I also find the Tenant's position on this issue is not aligned with the written correspondence between the parties throughout the tenancy. There is reference to the Tenant being woken up by the Landlord on one occasion when they were working on their vehicle and on another when bears were getting at the garbage. There is no mention of the purported frequent invasions of privacy and disturbances.

Based on the above, I find the Tenant has failed to meet the evidentiary burden and establish their claim that the Landlord breached their right to quiet enjoyment under section 28 of the Act. I do not find compensation of any level, even nominal damages, is justified in this case. I dismiss the claim without leave to reapply.

### *Removal of furnishings*

As already noted in this Decision, Section 27 of the Act allows landlords to terminate or restrict a service or facility if written notice is given and the rent is reduced by an equivalent value. Appliances and furnishings are included in the definition of "service or facility" in section 1 of the Act.

It was undisputed that two barstools were furnishings included in the tenancy, were present in the rental unit from May 15, 2024, and were then removed by the Landlord at

the end of August when they took them to the Upper Unit. There was no notice or reduction in rent given by the Landlord for the period of just under six months where the Tenant was without the stools. Whilst the Landlord indicated there was an agreement for furnishing to be removed from the rental unit once the Tenant obtained their own, it was clear this had not happened. Why the stools were removed from the rental unit was beyond me.

Whilst it is clear the Landlord has breached the Act, in this case, I am not inclined to grant the claim in full. I find the amount requested of \$50.00 per month to be excessive and not representative of the loss in value of the tenancy. Further, I find significant issues in the Tenant's steps to mitigate the loss. Nothing before me indicated the Tenant raised this as an issue with the Landlord, despite having frequent text message exchanges with them about many other issues during the tenancy.

Since it was undisputed the tenant in the Upper Unit did not want the stools in any case, I find it more likely than not that this issue could have been solved very promptly and the loss almost entirely eradicated had reasonable steps been taken by the Tenant, namely, communicating with the Landlord that the removal of the stool was an issue that warranted remedying or a reduction in rent. In this case, I find nominal damages of \$20.00 appropriate.

#### *Remainder of rent for February 2025*

Since this issue overlaps with the Landlord's claim for unpaid rent for February 2025, I will address this when dealing with the Landlord's Application.

#### *Dehumidifier*

I find insufficient evidence to support the notion the expenses incurred in buying the Tenant's dehumidifier were because of a breach on the Landlord's part. I have already noted my findings on the frailties of the Tenant's evidence regarding any breach of section 32(1) of the Act in respect of the rental unit by the Landlord and the issues with applying the mould report to the rental unit.

I found no compelling evidence to indicate the rental unit had elevated levels of humidity for a sustained period or that this was anything to do with the Landlord. In any event, the Tenant retains the appliance itself so even if a breach by the Landlord had been established, the claim would warrant significant reduction to avoid betterment. I dismiss the claim without leave to reapply.

*Damage to personal property*

Should it be established that a landlord breached their obligations under section 32(1) of the Act and a tenant's personal property were damaged as a result of this, I find some compensation could flow in that scenario.

In this case, the Tenant alleged the level of humidity in the rental unit caused mould to grow on two items of clothing. As noted previously in this Decision, I find insufficient evidence to indicate a breach of the Act on the Landlord's part led to increased or unsafe levels of humidity or mould in the rental unit.

From the above, I find the Tenant has failed to establish the basis of their claim i.e. a breach was committed by the Landlord. I also find other issues with this claim. The items in question had not been disposed of, nor had they been cleaned. The images do not appear to show extensive mould on them, and I did not find the Tenant's oral evidence that cleaning was simply not an option to be credible. From this, had the Tenant established the Landlord breached the Act, there would be the issues of betterment and mitigation of loss to address.

*Missed work*

There are significant issues with the Tenant's claim. I find no evidence that indicates any breach on the Landlord's part. The Tenant's written evidence indicates the appointment to install internet was not possible because of a mistake on the part of the utility provider, not the Landlord. Further, I found insufficient evidence to indicate the loss claimed was actually sustained by the Tenant and any income was lost. In these circumstances, I dismiss the claim without leave to reapply.

*Yard maintenance*

I find this claim falls outside of the scope of the Act. Whilst section 2(1) of the Act provides a broad application of the Act, stating it applies to tenancy agreements, rental units and other residential property, I find this claim relates to payment for services offered to the Landlord by the Tenant on a professional basis which would not be within the purview of the Branch.

*Veterinary bills*

I have already set out my findings regarding the frailties of the Tenant's position regarding mould in the rental unit. I find the Tenant's claim that mould in the rental unit affected their dog's health was based on speculation alone and there was no credible evidence to support the notion the Landlord was responsible for the vet's bills being incurred. Per the Tenant's own evidence, the only tests carried out on their dog returned normal results. I dismiss the claim without leave to reapply.

*Moving costs*

I do not find the Tenant has established that their moving costs were incurred due to a breach of the Act, the Regulation, or the tenancy agreement on the Landlord's part. The Landlord has not ended this tenancy in contravention of section 44 of the Act. They issued the Notice to the Tenant, which was disputed, and then cancelled by an arbitrator. The tenancy was ended through the Tenant's notice and whilst the Tenant has established there were a number of breaches from the Landlord during the tenancy, including restriction of services, I do not find these breaches translate to the Tenant's moving costs being recoverable from the Landlord. I dismiss the claim without leave to reapply.

*Filing fee for previous dispute*

From a review of the decision dated February 19, 2025 where the Notice was cancelled, I find the arbitrator authorized the Tenant to withhold \$100.00 from their next rent payment under section 72(2)(a) of the Act. It is clear to me the Tenant did not have the opportunity to withhold any amount from rent since they vacated by the time the decision was made. Whilst this was of their own volition, I see no prejudice to the Landlord by accounting for this entitlement granted to the Tenant under the February 19 decision as part of the monetary award under this Application. The alternative would be the Tenant seeking a correction to request a Monetary Order for \$100.00 which would seem to be disproportionate for all parties involved.

*Return of the deposits*

For simplicity, determination on this issue will be addressed under the Landlord's claim to retain the Tenant's deposits.

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

Section 26 of the Act requires tenants to pay rent on time unless they have a legal right to withhold some, or all, of the rent. The Act sets out limited circumstances where the tenant can make deductions from rent, which includes at section 51(1) of the Act which states that a tenant who receives a notice to end a tenancy under section 49 of the Act is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

Sections 51(1.1) and (1.2) of the Act set out how a tenant who receives a notice under section 49 of the Act may receive the one month's rent in compensation and outlines that the tenant may either withhold the last month's rent, or if this has already been paid to the landlord, the landlord must refund it.

Section 50(1) of the Act also allows a tenant who has received a notice under section 49 of the Act to end a periodic tenancy by giving 10 days' notice instead of the usual period of at least a month set out in section 45 of the Act. If the tenant has paid rent before giving 10 days' notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice, as set out in section 50(2) of the Act. As outlined in section 53(3) of the Act, a tenant's 10 days' notice is one of the exceptions where the effective date of the notice does not have to be the last day of the period rent is due and can be part way through the period.

It was undisputed that the Landlord issued the Notice to the Tenant under section 49 of the Act which an effective date of March 31, 2025, that the Tenant disputed the Notice, and that it was ultimately cancelled by an arbitrator in a decision dated February 19. By this time the Tenant had already given notice to end tenancy on February 9, purporting to end the tenancy on February 19.

Both parties now make claims regarding rent for February 2025. It was undisputed that the Tenant did not pay rent due February 1, but they seek a pro-rated amount for the remainder of the month where they did not occupy the rental unit as a means of obtaining the compensation they argue they are entitled to under section 51(1) of the Act. The Landlord seeks compensation for the rent due February 1 that went unpaid.

I find the central issue to determine here is whether the Tenant was entitled to compensation equivalent to one month's rent under section 51(1) of the Act, and whether they were entitled to give ten days' notice to end the tenancy, per section 50(1)

of the Act. After considering the submissions of both parties, I find the Tenant had neither of these entitlements. My reasoning is as follows.

Sections 46 to 49 of the Act set out the framework regarding notices to end tenancy a landlord may issue. In each section there are provisions for a tenant receiving a notice to dispute it within a given time period, and if this does not happen, they are deemed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit accordingly.

I find the purpose of the Act is to allow tenants to dispute a notice to end tenancy if they wish, or accept it, and not both. If a tenant disputes a notice, then wishes to withdraw their application, they may do so in accordance with rule 5 of the *Rules of Procedure*, and if this happens no determination on the validity of the notice is made.

In this case, the Tenant disputed the Notice, participated in the hearing where its validity was addressed and ultimately led to its cancellation. In the February 19 decision, the arbitrator clearly sets out their order that the Notice is of no force or effect and that the tenancy continues until ended in accordance with the Act.

As set out in section D of Policy Guideline 50 - *Compensation for Ending a Tenancy*, tenants are entitled to compensation under section 51(1) of the Act if they receive a valid notice to end tenancy for landlord's use of property, but compensation is not required if an arbitrator cancels the notice. I find this is reasonable as if a notice is set aside, it follows that any obligations such as vacating the rental unit, or rights such as receiving one month's rent in compensation would also be set aside.

There is no comment in Policy Guideline 50 about the timing of the arbitrator's decision cancelling the notice, but I find it entirely reasonable and logical for any rights or obligations under the Notice to be extinguished, given it is of no force or effect.

In this case, I find the extinguishment of rights not only applies to the right to compensation under the Notice, but also the right to give ten days' notice to end the tenancy. The Tenant brought about the process whereby the Notice was cancelled and participated in the hearing. Whilst the decision to set aside the Notice had not been made by the time the Tenant gave their notice to end the tenancy, their conduct up until that point would reasonably indicate to the Landlord that they wished for the tenancy continue and that the validity and effect of the Notice was suspended, pending the arbitrator's decision. I reiterate my findings that for the Tenant to rely on rights under the Notice having brought about its cancellation would be unreasonable.

The upshot of the above is that I find the Tenant is not entitled to one month's rent in compensation under section 51(1) of the Act, they were not entitled to give ten days' notice to end the tenancy under section 50(1) of the Act, and therefore they were obligated to pay rent in full on February 1, 2025. As an aside, even if the Tenant were entitled to one month's rent in compensation, the manner in which they withheld rent on February 1 was not done in accordance with the Act. Per section 51(1.1) of the Act, the last month's rent may be withheld which would have been the rent due March 1 given the effective date of the Notice was March 31 and the Tenant had not given notice by that point anyway.

Based on the above, I dismiss the Tenant's claim under section 51(1) of the Act without leave to reapply. I grant the Landlord's claim under section 26 of the Act for rent due February 1 and issue a payment order in the Landlord's favour for \$1,700.00 accordingly.

**Is the Tenant entitled to a Monetary Order for the return of some or all of their deposits, or, is the Landlord entitled to retain some or all of them?**

Section 38(1) of the Act requires a landlord to either repay the security deposit to the tenant or make an application for dispute resolution claiming against the security deposit within fifteen days of the tenancy ending and receiving the tenant's forwarding address in writing, which ever is later.

Section 38(6) of the Act states that if a landlord does not take either of the courses of action set out in section 38(1) of the Act, the landlord may not make a claim against the deposits and must pay the tenant double their amount.

As noted earlier in this Decision, I find the Tenant did not have the right to end the tenancy with ten days' notice through their letter of February 9. As an aside, the Tenant did not account for the deeming provisions of section 90 of the Act when indicating the effective date of their letter purporting to end the tenancy on February 19. In any case, given the Tenant did not have the right to end the tenancy with ten days' notice, under section 53 of the Act, the Tenant's notice would automatically be corrected to March 31. I find the tenancy ended on this date, though the Tenant's notice under section 45(1) of the Act.

The Landlord submitted their Application on March 14, 2024. Given this, the Landlord has applied within the fifteen-day timeframe set out in section 38(1) of the Act and the doubling provisions of section 38(6) of the Act do not apply.

Though the Landlord has extinguished their right to claim against the deposits for damages under section 24(2) of the Act by failing to prepare a condition inspection report at the start of the tenancy, they retain the right to claim for other losses such as those relating to unpaid rent, as the Landlord has done in this case. The definition of "security deposit" set out in section 1 of the Act makes it clear the deposit is held as security for any liability or obligation of the tenant respecting the residential property.

Section 72(2)(b) of the Act also states that if the director orders a party to a dispute resolution proceeding to pay any amount to the other, the amount may be deducted in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Given I have issued payment orders in favour of both parties, these must be first offset against one another before determining how the security deposit and pet damage deposit are dealt with.

As noted above, the Landlord is issued a payment order for \$1,700.00. The Tenant's payment order is summarized as follows:

<b>Item</b>	<b>Amount</b>
Silverfish infestation	\$150.00
Repairs not completed	\$150.00
Cancelled utility services	\$532.00
Removal of furnishings	\$20.00
Filing fee for previous dispute	\$100.00
<b>Total</b>	<b>\$952.00</b>

The two monetary awards when offset against another result in a net award in the Landlord's favour of \$748.00 (\$1,700.00 - \$952.00). The Landlord may retain this amount from the Tenant's deposits plus accrued interest in full satisfaction of the award under section 72(2)(b) of the Act.

The Landlord holds deposits totalling \$1,250.00. The interest accrued is \$29.49, so the Landlord retains a total of \$1279.49. Per section 4 of the Regulation, interest on security deposits is calculated at 4.5% below the prime lending rate. The amount of interest

owing on the deposits was calculated as using the Residential Tenancy Branch interest calculator using today's date.

Since the Tenant has not extinguished their right to the return of the deposits under sections 24(1) or 36(1) of the Act, I order the Landlord to return the remainder of the deposits to the Tenant, and I issue them a Monetary Order accordingly. The Monetary Order is summarized as follows.

<b>Item</b>	<b>Amount</b>
Deposits, plus accrued interest	\$1279.49
Less: Landlord's net monetary award	(\$748.00)
<b>Total</b>	<b>\$531.49</b>

### Conclusion

The Tenant's Application is granted in part. The Landlord's Application is granted. The Landlord is authorized to retain \$748.00 from the Tenant's deposits and must return the remaining amount of \$531.49 to the Tenant.

The Tenant is issued a Monetary Order. A copy of the Monetary Order is attached to this Decision and must be served on the Landlord. It is the Tenant's obligation to serve the Monetary Order on the Landlord. The Monetary Order is enforceable in the Provincial Court of British Columbia (Small Claims Court).

This Decision is made on authority delegated to me by the Director of the Branch under section 9.1(1) of the Act.

Dated: August 29, 2025

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Residential Tenancy Branch