

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's 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

It also dealt with the Landlord's application

- a Monetary Order for unpaid rent under section 67 of the Act
- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Tenant R.T. and Tenant C.T. attended for the Tenant.

Landlord F.T. attended for the Landlord.

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

The Landlord confirmed receipt of the Proceeding Package through registered mail and that they had enough time to review it. Therefore, I find the package properly served per section 89 of the Act.

### **Service of Evidence**

The Landlord confirmed receipt of the Tenant's evidence through registered mail and that they had enough time to review it. Therefore, I find that it was served per section 88 of the Act.

The Tenant confirmed receipt of the Landlord's evidence through registered mail and that they had enough time to review it. Therefore, I find that it was served per section 88 of the Act.

### **Issues to be Decided**

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

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

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

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

### **Background and Evidence**

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

The Landlord claims the Tenant owes compensation under the tenancy agreement. The Tenant claims the Landlord owes double the damage deposit because they did not file a claim within 15 days of receiving the forwarding address.

Both parties agreed about the following:

- The parties agreed that the tenancy began on April 2, 2024, and ended on May 31, 2025. They agreed that the rental unit was the upper unit at 3446 Happy Valley Road in Victoria. They confirmed that the monthly rent was \$2,800.00 and that the combined security and pet damage deposit was also \$2,800.00.
- The Landlord confirmed receiving the Tenant's forwarding address on May 31, 2025.
- The parties agreed the Tenant did not sign the move-out inspection report. The Tenant was present but chose not to sign.
- The Tenant acknowledged that their cat caused damage to the bedroom wall. The Landlord confirmed that this damage was part of the original notice to end the tenancy. Both parties referred to a previous settlement agreement that acknowledged the Tenant's responsibility for some damage.
- The toilet seat was damaged at the end of the tenancy.
- There was damage to the bathroom countertop.

### *Landlord's Claim*

The Tenant did not dispute responsibility for carpet cleaning costs. They acknowledged this was part of their agreement and agreed the amount could be deducted from the damage deposit.

The Tenant did not dispute the Hydro bill. They confirmed responsibility for Hydro during the tenancy and agreed the cost could be deducted from the deposit.

The Landlord claimed compensation for the following items. They provided receipts for each listed item:

<b>For</b>	<b>Amount</b>
Move Out Carpet Cleaning	\$338.05
Hydro usage for March 06, 2025, to May 31st, 2025	\$211.94
Ensuite damaged toilet seat	\$58.23
Main bathroom countertop	\$378.00
Re & Re sink to replace countertop, main bathroom	\$210.02
Repair, paint and replace damaged areas	\$2,493.69
<b>Total monetary order claim</b>	<b>\$3,389.93</b>

The Landlord gave the following testimony:

- The Landlord described burn marks on the toilet seat and said it needed replacement. The bathroom countertop was chipped and could not be repaired because the material was discontinued. A plumber had to reinstall the sink after replacing the countertop. The Landlord also described damage to drywall, baseboards, and trim, including water damage near the shower.
- The Landlord said they had owned the rental unit for about 10 years and agreed the toilet seat was likely 10 years old. They said the bathroom countertop was also about 10 years old. The Landlord explained the countertop was chipped and could not be repaired because the original laminate was no longer available. The installer advised full replacement was the only solution.
- The Landlord said they had owned the rental unit for approximately 10 years and agreed that the toilet seat was likely around 10 years old. Regarding the bathroom countertop, the Landlord said it was also approximately 10 years old. The Landlord explained that the countertop was chipped and could not be repaired because the original laminate material was no longer available. The installer advised that the only solution was full replacement.
- The Landlord confirmed that the rental unit had been repainted several times. The most recent repainting occurred just before the Tenant moved in. At that time, the bedrooms, walls, baseboards, and trim were touched up to address any damage left by previous occupants.

The Tenant gave the following testimony:

- The Tenant said the toilet seat was already damaged when they moved in. They claimed both parties saw the damage during the move-in inspection but did not document it.

- Regarding the bathroom countertop, the Tenant said they did not notice any damage during the tenancy and described it as a small nick on the side. They disputed the need for full replacement and said they did not cause the damage.
- They stated that the Landlord did not repaint the stairwell, which is where some of the claimed damage was located. They denied causing water damage in the bathroom and said they always closed the shower door properly.
- The Tenant acknowledged their cat caused damage to the bedroom wall. They denied responsibility for other damages and said most issues were normal wear and tear. They said the Landlord's typed summary of charges was not supported by receipts and was not agreed to.

The Landlord provided an invoice for the drywall repairs that provided the following breakdown of the costs:

Product/Service	Description Summary	Total
Site Preparation and Clean Up	Protect surfaces, install dust barriers, vacuum sanding, daily clean-up	\$24.99
Drywall Patching – Ensuite Bathroom	Replace drywall, match paint, install baseboard, paint and caulk	\$799.99
Drywall Patching – Entry Way	Repair stairwell wall and trim, paint stairwell wall	\$799.99
Drywall Patching – Bedroom 1	Repair cat claw marks, touch up paint, smooth finish	\$249.99
Drywall Patching – Bedroom 2	Repair claw marks and scratches, paint sill and wall	\$299.99
Drywall Patching – Miscellaneous	Repair dining room wall, replace and paint quarter round	\$199.99

The Landlord provided a move-in inspection report dated April 2, 2024. It is signed by both parties, and a box is ticked by the Tenant's agreeing that it fairly represents the condition of the rental unit. It states the rental unit is in good condition.

The Landlord provided a move-out inspection report signed on May 31, 2025. The Tenant wrote "Refused to Sign" in the signature box. The report does not include a box or space for the Tenant to disagree with the report. It states there is damage to the walls, windows, bathroom countertop, trim, and that the carpet is dirty.

The Landlord provided photos of the damaged items.

The Landlord provided a settlement agreement signed by a Residential Tenancy Branch arbitrator. It is from a previous application between the parties. Its fifth term states:

"The Tenants acknowledge that they may be responsible for some damage to the rental unit, and they agree to comply with the Act and repair this damage prior to the end of the tenancy. The Tenants are aware that they are responsible for any damage that was caused due to their negligence, and that they could be held responsible for the cost to repair this if they do not return the rental unit to a re-rentable state at the end of the tenancy, in accordance with the Act. The parties agreed that the move-in inspection report that they completed on April 2, 2024, is the report that establishes the condition of the rental unit at the start of tenancy."

### *Tenant's Claim*

The Tenant said they did not sign the move-out inspection report because they disagreed with its contents. They said they were not given a fair chance to dispute the damages listed in the report. They also said the Landlord failed to file a claim within 15 days of receiving the forwarding address, which they believed invalidated the Landlord's claim to the deposit.

The Landlord testified to the following:

- The Landlord said they emailed the Tenant a summary of charges on June 14, 2025, but received no response. They believed this showed the Tenant refused to pay. The Landlord stated the damages exceeded the deposit and included costs for repairs to the toilet seat, bathroom countertop, drywall, paint, trim, and en suite area.
- The Landlord said the Tenant failed to acknowledge legitimate charges and was trying to avoid payment. They believed the Tenant's lack of response showed unwillingness to resolve the matter. The Landlord said they were unaware of the 15-day deadline to file a claim and did not intend to violate the rules.

Residential Tenancy Branch records show the Landlord made their application on July 21, 2025.

## **Analysis**

### *Burden*

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

### *Organization*

I have combined the analysis of some claims to improve clarity and avoid repeating information. I will analyze all claims and address all legally relevant arguments.

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

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

- the tenant has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the landlord acted reasonably to minimize that damage or loss

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the Landlord has established a claim for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

I found the statement in the settlement agreement where the Tenant acknowledges possible damage to be irrelevant. This statement shows the Tenant's legal responsibility under the Act, not responsibility for specific damage.

### *Agreed Charges*

The parties agree the Tenants did not clean the carpet as required under the tenancy agreement. I find the Landlord suffered a loss of \$388.05 based on the carpet cleaning receipt. I find the Landlord acted reasonably to minimize the loss by hiring a professional to complete the work.

The parties agree the Tenants were required to pay utilities and did not pay the hydro bill from March 6 to May 31, 2025. I find the Tenant breached the agreement by not paying the bill. I find the Landlord suffered a loss of \$211.94 based on the hydro bill provided.

I find the Landlord has proven they are owed \$549.99 for the agreed-upon damages.

Claim	Amount Granted
Move Out Carpet Cleaning	\$ 338.05
Hydro usage for March 06, 2025, to May 31st, 2025	\$ 211.94
Total	\$ 549.99

## *Damage to the Rental unit*

### Toilet Seat

I find the Landlord has proven on a balance of probabilities that the Tenant caused damage to the ensuite toilet seat.

I base this mainly on the move-in condition inspection report and the parties' agreement that the toilet seat was damaged at the end of the tenancy. Section 21 of the *Residential Tenancy Act Regulation*, B.C. Reg. 477/2003 (the "Regulation") strongly suggests that a valid condition inspection report should be presumed correct. I base this on how the Regulation states the Report is evidence unless a party can provide a preponderance of evidence to the contrary.

While the move-out inspection report has problems, I find the move-in inspection report meets the Regulation's requirements. The damage to the toilet seat is not mentioned in the report, so I find it was not damaged at the start of the tenancy. The Tenant said the toilet seat was damaged but chose not to document it. Because the Landlord contests this, I find the Tenant's testimony is outweighed by the valid inspection report.

The Landlord provided a receipt showing the toilet seat replacement cost \$58.23. I find this is what they paid on a balance of probabilities. However, granting the full amount would ignore the principle of betterment. Residential Tenancy Policy Guideline 40 states:

"Compensation for damage or loss is meant to put the person who suffered the damage or loss (claimant) in the same position as if it had not occurred (see Policy Guideline 16: Compensation for Damage or Loss.) Repair or replacement of a damaged item or asset, may improve the value or condition of the claimant's property, putting the claimant in a better position than they were in before the damage occurred. [...] Compensation may be adjusted to account for betterment by considering the remaining useful life of the damaged property at the time the damage occurred. [...]"

Therefore, the director may consider the remaining useful life of the damaged fridge and adjust the amount of compensation to reflect its value at the time the damage occurred.

In some cases, a damaged building element may be replaced with a different type of building element. If this occurs, the award could be based on the remaining life and value of the original building element. [...]"

I find the toilet seat was 10 years old based on the Landlord's testimony. I find its useful life is 20 years based on Residential Tenancy Policy Guideline 40. Therefore, the Landlord is owed 50% of the replacement cost, or \$29.18, because the toilet seat was halfway through its useful life.

### Main Bathroom Countertop

I find that it is likely the Tenants caused damage to the countertop. I base this on how I found the Tenant to be uncertain regarding whether they caused the damage. The condition inspection shows the rental unit was in good condition at move in. Given the nature of the damage in the picture I find it is likely that the damage was caused by neglect rather than wear and tear.

I find the Landlord suffered a loss of 5% of the countertop. I base this on the image the Landlord provided.

The Landlord testified that the countertop was discontinued and had to be replaced. However, I find the breach only accounts for repairs to the countertop itself. I find it the Tenant could not reasonably foresee when they signed the tenancy agreement that that minor damage would require full replacement. Therefore, I find the value of the countertop that the Tenant is responsible for is \$378.00.

I find the countertop was laminate or wood based on the Landlord's pictures. Its useful life is 15 years according to Residential Tenancy Policy Guideline 40. The countertop was 10 years old, so two thirds of its useful life had passed. Therefore, only \$124.74 of its value remained.

As I previously found the breach only accounted for 5% of the countertop, I find the value of the Landlord's loss was \$6.24.

### Drywall

I find the Landlord has proven that damage to the drywall and paint, except for the bathroom drywall, was due to the Tenant's negligence. The Tenant said the damage was due to wear and tear. However, the condition inspection report shows the rental unit was in good condition before the tenancy. The pictures show punctures or deep indentations. Therefore, I find it is more likely the damage was caused by negligence rather than reasonable use.

I find the Landlord has not proven the ensuite bathroom drywall damage was due to the Tenant's misuse. The damage appears to be water damage outside the shower. The Tenant said they used the shower properly and closed the door. I find the pictures show the drywall itself was vulnerable to water damage. The wall had no tiling, unlike standard bathroom design. Given this, I find it likely the drywall may have been damaged even with reasonable use. Therefore, I find the Landlord has not proven the Tenant's negligence caused the damage.

I find the Landlord paid \$1,693.70 to repair damage caused by the Tenant. I base this on the receipt for \$2,493.69. The Tenant is responsible for \$1,693.70 because \$799.99 was for bathroom drywall repairs the Tenant was not responsible for.

I find the useful life used to calculate the loss is the damaged drywall. Part of the repair involved restoring paint, but this was only needed due to drywall damage. The drywall's

useful life is 35 years, based on Residential Tenancy Policy Guideline 40. It was 10 years old before repairs, so it had lost 29% of its value, or \$491.17, due to age.

I find the Landlord has proven they suffered a loss of \$1,202.53 due to the damage the Tenant caused to the drywall.

Item	Amount
Drywall	\$2,493.69
Bathroom repairs	-\$ 799.99
Repairs due to Tenant negligence	\$1,693.70
Deduction due to the age of the Drywall pre-repairs	-\$ 491.17
Total owed for drywall	\$1,202.53

I find the Landlord has proven they are owed \$1,237.83 for damage to the rental unit.

Damage	Amount Granted
Ensuite damaged toilet seat	\$ 29.12
Main bathroom countertop	\$ 6.24
Repair, paint and replace damaged areas	\$ 1,202.53
Total granted	\$ 1,237.88

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Therefore, I find the Landlord is entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act, in the amount of \$1,787.87.

Claim	Amount Granted
Agreed Charges	\$ 549.99
Damage to the Rental Unit	\$ 1,237.88
Total Granted	\$ 1,787.87

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

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

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

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it. I find the Tenant provided their forwarding address on May 31, 2025. As the Landlord made their application on July 21, 2025, I find that the Landlord did not make their application within 15 days of the forwarding address being provided.

Section 38 of the Act is clear. Unless a Tenant's right to the deposit is extinguished, the Landlord must either get written agreement to retain it or file an application within 15 days. Lack of legal knowledge does not excuse this obligation.

I find the Tenant's right to the deposit was not extinguished. The Tenant participated in the move-out inspection. I find whether the Tenant signed the move-out inspection is irrelevant because the Landlord's move-out report does not comply with the Regulation. The move-out report the Landlord submitted did not include space for the Tenant to disagree or state concerns. Therefore, the report is invalid under section 20 (1) (k) of the Regulation.

Residential Tenancy Policy Guideline 17 lists the following situations where a security deposit may be doubled:

- "a. if the landlord has not filed a claim against the deposit within 15 days of the later of the end of the tenancy or the date the tenant's forwarding address is received in writing;
- b. if the landlord has claimed against the deposit for damage to the rental unit and the landlord's right to make such a claim has been extinguished under the RTA;
- c. if the landlord has filed a claim against the deposit that is found to be frivolous or an abuse of the dispute resolution process;
- d. if the landlord has obtained the tenant's written agreement to deduct from the security deposit for damage to the rental unit after the landlord's right to obtain such agreement has been extinguished under the RTA;
- e. whether or not the landlord may have a valid monetary claim"

As the Landlord did not file their claim within 15 days, I find the security and pet damage deposits must be doubled under section 38 (6) of the Act. Both parties agree the combined value of the pet and security deposit is \$2,800.00. That amount doubled is \$5,600.00.

I grant the Landlord the right to retain \$1,887.87 of the deposit as compensation for proven damages, using my authority under section 72 of the Act. This amount will be deducted from the \$5,600.00 deposit.

Therefore, I order the Landlord to return \$3,712.13 of the Tenant's deposit.

Monetary Issue	Granted Amount
Deposit	\$ 5,600.00
Landlord compensation	-\$ 1,787.87
Filing Fee	-\$ 100.00
Amount to be returned	\$ 3,712.13

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

As the Tenant was successful in their application, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Conclusion**

I grant the Tenant a Monetary Order in the amount of **\$3,812.13** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act	-\$ 1,787.87
a Monetary Order for the Tenant for the return of their deposit(s) from the Landlord	\$ 5,600.00
authorization to recover the filing fee for this application from the Landlord under section 72 of the Act	\$ 100.00
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	-\$ 100.00
<b>Total</b>	<b>\$ 3,812.13</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 and enforced in the Provincial Court of British Columbia (Small Claims Court) if equal to or less than \$35,000.00. Monetary Orders that are more than \$35,000.00 must be filed and enforced in the Supreme Court of British Columbia

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

Dated: September 19, 2025

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Residential Tenancy Branch