DECISION

Introduction

This hearing originally convened on June 12, 2025 and was adjourned in an Interim Decision dated June 12, 2025 (the First Interim Decision). This hearing re-convened on July 23, 2024 and was adjourned in an Interim Decision dated July 23, 2025 (the Second Interim Decision). This Decision should be read in conjunction with the First Interim Decision and the Second Interim Decision.

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- 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

This hearing also dealt with the Tenants' Application for Dispute Resolution under the Act for:

- a Monetary Order for damage or compensation under the Act, regulation or tenancy agreement under section 67 of the Act
- recovery of the Tenants' security deposit under section 38 of the Act
- authorization to recover the filing fee for this application from the Landlords under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

In the first hearing the Landlord's agent (the Agent) testified that the Tenants were served with the Landlord's Proceeding Package via email on April 14, 2025. The Landlords were granted permission to serve Tenant S.S. via email in a substituted service decision dated April 4, 2025. An email serving Tenant S.S. with the Proceeding Package on April 11, 2025 was entered into evidence. The Agent testified that she may have the date wrong and that the Proceeding Package may have been served on April 11, 2025.

In the first hearing the Tenants confirmed receipt of the Proceeding Package via email on April 15, 2025. I find that Tenant S.S. was served with the Proceeding Package in accordance with the substituted service decision. As Tenant R.K. confirmed receipt of the Proceeding Package, I find that even though the Landlord was not permitted to serve her at Tenant S.S.'s email address, she is sufficiently served for the purposes of this Act in accordance with section 71 of the Act as receipt was confirmed.

In the first hearing the Tenants testified that they served the Landlords with their Proceeding Package via registered mail on April 16, 2025. The Agent confirmed receipt of the Proceeding Package via registered mail. I find that the Landlords were deemed served with the Proceeding Package on April 21, 2025, in accordance with section 89 and 90 of the Act.

In the first hearing the Agent testified that the Landlord's evidence was served on the Tenants on April 11, 2025 in the same email the Proceeding Package was e-mailed in. The Tenants testified that the email serving the Landlord's Proceeding Package did not contain any evidence. The April 11, 2025 email entered into evidence shows that no evidence is attached. A service email dated April 14, 2025 was not entered into evidence. Based on the Tenants' testimony and the April 11, 2025 service email, I find that the Landlord's evidence was not served in the April 11, 2025 email and that the Proceeding Package was served on April 11, 2025 and not on April 14, 2025.

In the first hearing the Landlord testified that he sent his evidence to the Residential Tenancy Branch (RTB). The Landlord submitted 107 pages of evidence to the RTB for consideration. The Agent testified that the Landlord misunderstood the service requirements and thought that because he had sent this evidence to the Tenants before filing for dispute resolution, that he did not have to re-serve his evidence for this hearing. No service documents for same were entered into evidence. The Agent testified that the Landlord also served his evidence for this application for dispute resolution and his evidence responding to the Tenant's application for dispute resolution via registered mail on May 30, 2025.

The Tenants confirmed receipt of the Landlord's evidence package via registered mail on June 5, 2025. The Tenants testified that this package contained 7 black and white photographs and 9 pages of written submissions that they had time to review before this hearing. The Tenants entered into evidence photographs of each page received from the Landlord as well as a video going through each page of evidence received. The photographs and video show that the documents received from the Landlord are black and white. The Agent testified that the Tenants were served with colour photographs. The Agent agreed that the above-described documents were contained in the May 30, 2025 registered mailing and that copies of the tenancy agreements and the 3 condition inspection reports were also provided in that mailing. The Tenants testified that the tenancy agreements and condition inspection reports were not contained in the above mailing.

I accept the documents uploaded by the Tenants on June 5, 2025 to be a complete representation of the documents contained in the registered mailing they received from the Landlord on June 5, 2025. I find that the Landlord has not proved, on a balance of probabilities the tenancy agreements or condition inspection reports were included in that mailing as no documentary evidence establishing same were presented. I find it more likely than not that the Tenants uploaded all the documents they received from the Landlords on June 5, 2025 to the Residential Tenancy Branch. Based on the photographs of the documents entered into evidence and the video of the documents entered into evidence, I find that the Tenants received black and white photographs, not colour.

I find that the Tenants were served with the Landlords' evidence received on June 5, 2025 in accordance with section 88 of the Act and are not prejudiced by its consideration, even though it was received by them less than 14 days before the first hearing, because the Tenants testified that they had time to review it before the hearing. The Landlords' evidence uploaded by the Tenants on June 5, 2025 is accepted for consideration.

The Landlord uploaded to the residential tenancy branch 107 pages of evidence. The Tenants testified that they object to the consideration of this evidence because they were not served with it and have therefore not been able to review or respond to it and did not know that the Landlord intended to rely on it for this hearing.

Rule 3.14 of the Rules of Procedure state that documentary and digital evidence that is intended to be relied on must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the first scheduled hearing. I find that the Landlord's 107 pages of evidence uploaded to the RTB were not served on the Tenants. The Tenants have a right to know what documents the Landlord intends to rely on the in the hearing and it is unreasonable for the Landlord to assume that any documents exchanged before filing for dispute resolution could be relied upon by the Landlord in this hearing. I find that the Landlord breached Rule 3.14 of the Rules of Procedure by failing to serve their evidence on the Tenants. The Landlord's 107 pages of evidence is therefore excluded from consideration.

The Tenants testified that they served their evidence for their application for dispute resolution on the Landlord via email on June 3, 2025. The Agent confirmed receipt of same on June 3, 2025. The Agent testified that the Landlord did not agree to e-mail service and it was happenstance that the Landlord checked their email on June 3, 2025. The Agent testified that the Landlord had time to review the Tenants' evidence prior to this hearing. I find that the Landlord was sufficiently served for the purposes of this Act with the Tenants' evidence on June 3, 2025 in accordance with section 71 of the Act because receipt was confirmed. While service via email was not permitted under the Act, I am satisfied that the Landlord received the evidence and had time to review it before this hearing and so is not prejudiced by the method or timing of service. The Tenants' evidence is therefore accepted for consideration.

Issues to be Decided

- Are the Landlords entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?
- Are the Landlords entitled to retain all or a portion of the Tenants' security deposit?
- Are the Landlords entitled to recover the filing fee for this application from the Tenants under section 72 of the Act
- Are the Tenants entitled to a Monetary Order for damage or compensation under the Act, regulation or tenancy agreement?
- Are the Tenants entitled to recover their security deposit?
- Are the Tenants entitled to recover the filing fee for this application from the Landlords?

Background and Evidence

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

Evidence was provided showing that this tenancy began on July 15, 2019 and ended on February 28, 2025. Both parties agree that the Tenants paid a security deposit of $1,100.00. The Tenants testified that they gave the Landlords $800.00 on July 15, 2019 and that each time the rent was raised, they gave the Landlord a proportional increase in security deposit with the total deposit given amounting to $1,100.00. This evidence was not disputed by the Landlord. The Agent confirmed that the first payment was $800.00 made in July 2019 and that the total amounted to $1,100.00. The Landlord did not provide the dates the additional payment towards the security deposit were made.

The Tenants testified that they provided the Landlords with their forwarding address via email on April 15, 2025. The Agent confirmed receipt of same on April 15, 2025.

The Agent testified that she has an email from the Tenants where the Tenants agree to allow the Landlord to deduct the cost of cleaning from the security deposit. The email was not accepted for consideration. The Tenants testified that they did not state that the Landlord was authorized to retain any portion of their deposits and that they made an offer to settle to the Landlord which included paying the cleaning costs from the deposit, but the Landlord refused the offer.

Both parties agree that a joint move in condition inspection and inspection report were completed by the parties. The Tenants entered into evidence pages 1 and 3 of the move in condition inspection report dated July 15, 2019. Page 1 provides details of the condition of the entry, kitchen and living room. Page 3 contains the signatures of both parties and that the Tenants agree with the contents of this report. Both parties agree that the move in condition inspection report does not state the number of keys provided to the Tenants. The portions of the move in condition inspection report entered into

evidence state that the majority of the rental property is in good condition and the only issue listed is a burn mark on the kitchen counter.

The Agent testified that a move out condition inspection was conducted with the Tenants on March 1, 2025 but the Tenants refused to sign the move out condition inspection report because they did not agree with its contents. The Tenants testified that a walk through occurred on March 1, 2025 but the Landlord did not complete a move out condition inspection report or ask them to sign one. A completed move out condition inspection report was not entered into evidence. No proof of service of a completed move out condition inspection report being served on the Tenants was entered into evidence.

The Agent testified that another condition inspection report was completed by the parties in August of 2022. A completed condition inspection report dated August of 2022 was not entered into evidence. The Tenants testified that they did not sign or complete a condition inspection report in August of 2022 and were not given a copy until the end of their tenancy. The Tenants testified that their signature was on the document, but the Landlord affixed it, and that they did not sign this document. The Tenants uploaded page 3 of the 2022 condition inspection report which states that the Tenants were given 3 keys. The Tenants testified that this report was fabricated.

The Landlords' application for dispute resolution seeks the following damages from the Tenants:

Item	**Amount**
Cleaning	$405.00
Labour to replace damaged floor tiles	$630.00
Labour to repair damaged walls	$300.00
Materials for wall repair and tiling	$583.07
Labour to repair damaged countertop	$350.00
Material for damaged countertop	$385.00
Replace leather sofa	$800.00
Replace locks	$200.00
Repair wardrobe	$150.00

Cleaning

Landlord V.N. testified that the stove was left dirty, there were sticky marks on the walls, and the floor was dirty. Landlord V.N. testified that a deep cleaning was required. The Agent testified that the Landlords hired a cleaner to clean the rental property which cost $404.25. A receipt for same was not accepted for consideration. The Agent testified that the oven was not pulled out and cleaned and that there was grease dripping down its sides and it was dirty underneath it. The Agent testified that there were mice sticky pads left in the drawer of the oven and that rodent droppings were also present. The Agent testified that the Tenants left mold in the windowsill, and it looked like they hadn't been

cleaned in a really long time, or ever. The Agent testified that there were mouse droppings in all cabinets.

The Tenants testified that they disagree with this claim for damages because they left the rental property reasonably clean at the end of the tenancy. The Tenants entered into evidence a video of the renal property taken at the end of the tenancy. The video showed the kitchen cabinets and drawers being opened, no mouse dropping were seen inside the kitchen cabinets or drawers. Rollers cannot be seen on the oven in the rental property.

The Tenants testified that on March 1, 2025 a walk-through inspection occurred and that they told Landlord V.N. at that time that if he was not satisfied with the cleanliness they would clean again but he refused. The Tenants testified that before filing for dispute resolution the Landlords sent them several quotes for cleaning but that they did not know they would be presented in this hearing. The Tenants testified that they could not find the cleaning companies quoted by the Landlords online. Landlord V.N. testified that the cleaner quotes sent to the Tenants were from reputable cleaners. Landlord V.N. testified that the rental unit was cleaned on March 10, 2025.

The Tenants testified that while they were doing the move out inspection, the Landlord pointed out mouse traps and droppings. The Tenants testified that they were not trying to hide anything. Landlord V.N. testified that he did not want to give the Tenants a second opportunity to clean the rental property because they did not do a good job the first time so he didn't trust they'd do a good job the second time.

Replace damaged floor tiles

The Agent testified that the rental property was newly renovated in May of 2019 and new ceramic tiles were installed. The Agent testified that the tile flooring in the kitchen and dining area were in good condition at the start of this tenancy and were chipped and damaged at the end of this tenancy. The Agent testified that it is open concept between the kitchen and the dining area. The Agent testified that the damage is mostly in the kitchen area. The move in condition inspection report entered into evidence by the Tenant is missing pages and the section regarding the condition of the dining room was not entered into evidence. The move in condition inspection report dated July 2019 does not note any damage to the kitchen floor.

Landlord V.N. testified that he had a handyman give him a quote for the labour to replace the 90 square feet of damaged tile at a cost of $7.00 per square foot for a total of $630.00. A quote was not accepted for consideration. The Tenants entered into evidence photographs of the flooring taken throughout the tenancy which show that it is chipped and damaged. The earliest photograph is dated December 19, 2019.

The Tenants testified that the tile flooring was in the same condition on move in as move out and that the Landlord didn't write down the damage to the flooring when the move in condition inspection report was completed. The Tenants testified that the

damage to the tile flooring is the same in the photographs they entered into evidence starting December 19, 2019 and throughout the tenancy and that the damage does not get worse which shows that they did not cause it.

Landlord V.N. testified that the cost of purchasing new tiles and tiling supplies was $312.00. No documentary evidence to support this claim was accepted for consideration.

The Tenants entered into evidence a video taken during the move out condition inspection in which Landlord V.N. references the chipped flooring. Tenant R.K. states that the flooring was already chipped at the start of the tenancy and Landlord V.N. responds that it was “not that bad”.

Countertop repair

The Agent testified that a new countertop was installed in 2019 except for one portion that had a burn mark on it. The move in condition inspection report states that there is a burn mark on the countertop. The Agent testified that after the Tenants moved in, the burnt countertop was replaced. Landlord V.N. testified that the counter was made of Arborite. The Agent testified that at the end of the tenancy there were 2 burn marks on the countertop, a section of the Arborite was lifted and there was a chip on the countertop. The Agent testified that the Tenants taped down the section of the Arborite that lifted during the tenancy.

Landlord V.N. testified that the cheapest replacement he could find cost $385.00. No documentary evidence stating same was accepted for consideration. Landlord V.N. testified that it cost him $350.00 for the labour to install the new countertop. No documentary evidence stating same was accepted for consideration.

The Tenants testified that the Landlords never repaired the burnt section of the countertop that was there at the start of the tenancy. The Tenants testified that there was only one burn mark and that it was pre-existing.

The Agent testified that the August 2022 condition inspection report does not note any damage to the kitchen counter because the Landlords had repaired it. The section of the August 2022 condition inspection report regarding the kitchen was not entered into evidence. The Tenants testified that this report was fabricated.

The Tenants entered into evidence a photograph of the countertop dated October 22, 2020 in which a chip to the countertop can be seen. The Tenants entered into evidence a photograph in which clear packing tape can be seen on the corner of the countertop. The Tenants testified that the countertops were in the same condition on move in as move out.

Wall repair

The Agent testified that that the walls were in good condition at the start of the tenancy. The Agent testified that the Tenants left the walls with many dents, marks and stickers but that the main damage was to the dining room wall. The Agent testified that along the dining room wall the Tenants left a long scratch running the length of the wall. The black and white photograph from the Landlords are too dark to make out any details. The move in condition inspection report entered into evidence is missing the dining room page. The Tenants entered into evidence a photograph dated June 12, 2020 in which the damage can be seen. The Tenant testified that the wall damage in the dining room was there when they moved in.

Landlord V.N. testified that the labour to repair the damage cost $300.00 plus a case of beer and the materials cost $271.07. No documentary evidence to support these amounts were accepted for consideration.

The Agent testified that the rental property was last painted in 2019, shortly before the Tenants moved in.

The Agent testified that in an email dated March 13, 2025 the Tenants accepted responsibility for the cost of cleaning and wall repairs. The March 13, 2025 email was not accepted for consideration.

Sofa

Both parties agree that during the tenancy the Landlords allowed the Tenants to use their leather love seat sofa. The Agent testified that the Tenants got paint on the back of the sofa. The Tenants testified that that they did not paint during the tenancy and did not get paint on the sofa. The Agent testified that before lending the sofa to the Tenants, they tried to sell it online. The advertisement for same was entered into evidence, it states that the sofa is from a pet free and smoke free home and that it is not ripping or fading and is in like new condition. The advertisement is dated January 9, 2020. The Agent testified that the advertisement supports her testimony that the couch was not stained and did not have paint on it before it was lent to the Tenants. The Agent testified that the sofa was lent to the Tenants on January 17, 2020. The back of the sofa cannot be seen in the advertisement.

The Landlord’s claim seeks $800.00 to replace the sofa. No documents establishing the valuation of the Landlords’ sofa was accepted for consideration.

The Tenants testified that the paint stain was not on the sofa during the tenancy and that it must have occurred after they moved out.

Locks

The Agent testified that the Tenants were provided with 3 keys at the start of this tenancy and only returned 2 at the end of the tenancy. The Agent testified that the August 2022 condition inspection report, signed by the Tenants, states that 3 keys were provided to the Tenants. The Landlord testified that because the keys were not all returned, he purchased a new lock for $24.95 and a deadlock for between $70.00 - $80.00. Receipts for same were not entered into evidence. The Landlord testified that he paid a handyman $200.00 to install the locks. An invoice for same was not accepted for consideration.

The Tenants testified that they only ever received 2 keys, which were returned to the Landlords. The Tenants testified that they did not complete or sign the August 2022 condition inspection report.

Wardrobe repair

Both parties agree that the Landlords lent the Tenants an armour at some point during the tenancy. Both parties agree that Landlord V.N. and Tenant S.S. carried the armour down the stairs to the rental unit together.

The Agent testified that the armour was in excellent condition when it was lent to the Tenants and a corner and side panel were stained yellow, and the top part was broken at the end of the tenancy. Photographs of the armour were not accepted for consideration.

The Tenants testified that the top of the armour was hit many times when it was carried to the rental property and may have been damaged then. The Tenants testified that the armour was in the same condition from when it was delivered to the end of the tenancy.

The Agent testified that they are claiming $150.00 to repair the armour. No documentary evidence to support this amount was entered into evidence.

Tenants' Monetary Claim

Both parties agree that when this tenancy started in 2019, rent was $1,600.00 per month, due on the first day of each month. Both parties agree that the parties signed new tenancy agreements periodically with the following rental amounts for the following fixed term tenancies:

- August 1, 2022 to January 31, 2023: rent $1,800.00
- February 1, 2023 to July 31, 2023: rent $1,800.00
- August 1, 2023 to July 31, 2024: rent $2,000.00
- September 1, 2024 to February 28, 2025: rent $2,200.00

Tenant S.S. testified that effective August 1, 2022, the Landlord increased the rent to $1,800 without serving a Notice of Rent Increase (RTB-7), stating verbally that the tenancy agreement was expiring and that the rent would rise by $200.00 if the Tenants wished to remain. Tenant S.S. testified that the Landlords asserted that upon signing a new tenancy agreement, the Landlord could set the rent and was not bound by the annual increase limits; the Tenants say they were told to find other accommodation if they did not agree.

Tenant S.S. testified that the rent was next increased effective August 1, 2023, from $1,800.00 to $2,000.00, again without a Notice of Rent Increase and following the same verbal process, with a new written lease signed at the higher amount. Tenant S.S. testified that the rent was again increased, effective September 1, 2024, from $2,000.00 to $2,200.00, and that no Notice of Rent Increase was served for that change either. The Tenant testified that they seek repayment only of the portions paid over the applicable annual limits for each period as follows:

August 1, 2022 to January 31, 2023

- Rent charged: $1,800.00
- Legal maximum rent (based on 1.5% increase): $1,624.00
- Overcharged by $176.00 per month for 6 months
- Total overcharged: $1,056.00

February 1, 2023 to July 31, 2023

- Rent charged: $1,800.00
- Legal maximum rent (based on 2% increase): $1,656.48
- Overcharged by $143.52 per month for 6 months
- Total overcharged: $861.12

August 1, 2023 to August 30, 2024

- Rent charged: $2,000.00
- Legal maximum rent (based on 2% increase): $1,689.61
- Overcharged by $310.39 per month for 13 months
- Total overcharged: $4,035.07

September 1, 2024 to February 28, 2025

- Rent charged: $2,200.00
- Legal maximum rent (based on 3.5% increase): $1,748.75
- Overcharged by $451.25 per month for 6 months
- Total overcharged: $2,707.50

The Agent testified that the Tenants agreed to all of the rent increases and that the Landlords gave several verbal notices before the new rent amounts came into effect, intending to provide ample time for the Tenants to consider their options. The Agent testified that no Notices of Rent Increase were served because the Landlords believed such notices were required only for annual guideline increases and that the parties were instead entering new fixed-term tenancy agreements reflecting mutually agreed rents.

Analysis

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

Section 67 of the *Act* states that if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Policy Guideline 16 states that it is up to the party who is claiming compensation to provide evidence to establish that compensation is due. To be successful in a monetary claim, the applicant must establish all four of the following points:

1. a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
2. loss or damage has resulted from this non-compliance;
3. the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
4. the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Failure to prove one of the above points means the claim fails.

Rule 6.6 of the Residential Tenancy 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. When one party provides testimony of the events in one way, and the other party provides an equally probable but different explanation of the events, the party making the claim has not met the burden on a balance of probabilities and the claim fails.

Cleaning

I find that the Landlord has not proved the value of the loss claimed as a cleaning invoice or estimate was not accepted for consideration. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Replace damaged floor tiles

No documents evidencing the value of the loss claimed by the Landlord were entered into evidence. I therefore find that the Landlord has not proved the value of the loss claimed. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Countertop repair

No documents evidencing the value of the loss claimed by the Landlord were entered into evidence. I therefore find that the Landlord has not proved the value of the loss claimed. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Wall repair

No documents evidencing the value of the loss claimed by the Landlord were entered into evidence. I therefore find that the Landlord has not proved the value of the loss claimed. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Sofa

No documents evidencing the value of the loss claimed by the Landlord were entered into evidence. I therefore find that the Landlord has not proved the value of the loss claimed. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Locks

No documents evidencing the value of the loss claimed by the Landlord were entered into evidence. I therefore find that the Landlord has not proved the value of the loss claimed. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Wardrobe repair

No documents evidencing the value of the loss claimed by the Landlord were entered into evidence. I therefore find that the Landlord has not proved the value of the loss claimed. As outlined above, the failure to prove the value of the claimed loss means the claim fails. This claim is therefore dismissed without leave to reapply.

Are the Landlords entitled to recover the filing fee for this application from the Tenants?

As the Landlords were not successful in their application for dispute resolution, I find that they are not entitled to recover the $100.00 filing fee from the Tenants under section 72 of the Act.

Are the Tenants entitled to a Monetary Order for damage or compensation under the Act, regulation or tenancy agreement?

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

Part 3 of the Act governs rent increases. Section 41 of the Act establishes that the Landlord may impose a rent increase only up to an amount calculated in accordance with the regulations, ordered by an Arbitrator, or agreed to in writing by the parties.

Section 42 of the Act states that the Landlord must use the form approved by the Residential Tenancy Branch (RTB Form #7) and must give the Tenant at least 3 months advance notice of the rent increase.

Section 43 of the Act states that a landlord may impose a rent increase only up to the amount (a) calculated in accordance with the regulations, (b) ordered by the director, or (c) agreed to by the tenant in writing.

The percentage of rent increase permitted under the Regulation was as follows for the following years:

- 2022: 1.5%
- 2023: 2%
- 2024: 3.5%

I find that the rent increases occurring in 2022, 2023 and 2024 were above the allowable limits set out in the Act and regulation. While the Landlord testified that these agreements were mutually signed and that the Tenants did not object at the time, the Act does not permit parties to contract out of its provisions. A new fixed-term agreement does not exempt the Landlord from the statutory requirements for rent increases.

Residential Tenancy Guide 37B states that a tenant may voluntarily agree to a rent increase that is greater than the maximum annual rent increase. Agreements must:

- be in writing,
- clearly set out the rent increase (for example, the percentage increase and the amount in dollars),
- clearly set out any conditions for agreeing to the rent increase,

- be signed by the tenant, and
- include the date that the agreement was signed by the tenant.

Residential Tenancy Guide 37B goes on to state that for agreed rent increases, a Notice of Rent Increase must be issued to the tenant three full month before the increase is to go into effect. Based on the testimony of both parties, I find that the Landlords did not provide the Tenants with the required 3-month notice of rent increase on the required RTB Form #7. For this reason, in addition to my above findings, the 2022, 2023 and 2024 rent increases are not compliant with the Act for an agreement to raise the rent to an amount greater that the maximum annual rent increase. I find that the 2022, 2023 and 2024 rent increases did not comply with section 43 of the Act and are therefore unenforceable.

The Tenants' monetary claim is only for the proportion of increased rent that was above the allowable limit, rather than all rent increases paid. As the Tenants are not seeking the entire overpayment, just the proportion of rent increases over the legal limit, I find that the rent overpayments are as follows:

Time Period	**Allowable rent increase if rent increase rules followed**	**Monthly rent overpayment**	**Number of months**	**Total overpayment**
August 1 2022-July 31, 2023	1.5% of $1,600.00 = **$24.00**	$1,800.00 (rent charged) - $1,624.00 (permissible rent if rent increase rules followed) = **$176.00**	12	$2,112.00
August 1, 2023 – August 30, 2024	2% of $1,624.00 = **$32.48**	$2,000.00 (rent charged) - $1,656.48 (permissible rent if rent increase rules followed) = **$343.52**	13	$4,465.76
September 1, 2024 – February 28, 2025	3.5% of $1,656.48 = **$57.98**	$2,200.00 (rent charged) - 1,714.46 (permissible rent if rent increase rules followed) = **$485.54**	6	$2,913.24
Total				**$9,491.00**

The Tenants monetary claim in only for $8,659.69 for the same period. I limit the Tenants' monetary award to the amount claimed by the Tenants in the application for dispute resolution as the Tenants did not seek to amend their claim in the hearing and the Landlords were not provided with an opportunity to respond to an expanded claim. I note that my calculations differ from the Tenants as the Tenants made calculations based on a rent increase occurring on both August 1, 2022 and February 1, 2023. However, the rent did not increase on February 1, 2023 but remained the same.

Based on my above findings, the Tenants are entitled to a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act, in the amount of $8,659.69.

Are the Landlords entitled to retain all or a portion of the Tenant's security deposit? Are the Tenants entitled to recover their security deposit?

Based on the testimony of both parties, I find that the Landlords were sufficiently served with the Tenants' forwarding address for the purposes of this Act on April 15, 2025, in accordance with section 71 of the Act as receipt of same was confirmed on April 15, 2025.

Section 38 of the Act requires the landlord to either return the tenant's security deposit or file for dispute resolution for authorization to retain the deposit, within 15 days after the later of the end of a tenancy and the tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary award, pursuant to section 38(6)(b) of the Act, equivalent to double the value of the security deposit.

However, this provision does not apply if the landlord has obtained the tenants' written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy (section 38(4)(a)).

I find that the Landlords have not proved that the Tenants agreed in writing to allow the Landlords to retain any portion of the security deposit as the email in which Landlord V.N. stated the Tenants gave their permission was not accepted for consideration. The Tenants testified that they made a settlement offer in which they agreed to pay for the cleaning costs, but this was not accepted by the Landlord. I find that an unaccepted offer to settle is not the same as written authorization to retain money from a security deposit.

The Landlords filed their application for dispute resolution on April 1, 2025. I find that the Landlords filed this application for dispute resolution in accordance with section 38 of the Act. The Landlords' application for dispute resolution contains a claim for cleaning. Cleaning is not damage under the Act, and so, despite any extinguishment provisions under the Act, the Landlords were permitted to retain the security deposit pending the outcome of this hearing as the extinguishment provisions only extinguish a landlord's right to retain the security deposit for damage to the rental property.

As the Tenants have provided their forwarding address to the Landlords and the Landlords' application for damage or compensation has been dismissed, without leave to reapply, I find that the Tenants are entitled to the return of their security deposit as claimed, plus accrued interest, in accordance with section 38 of the Act. In this application for dispute resolution the Tenants are only seeking the return of $395.00 from their security deposit. In the hearing the Tenants did not request to amend their application for dispute resolution to seek the full amount of the security deposit. I

therefore limit the Tenants' monetary award to the amount claimed by the Tenants in their application for dispute resolution, $395.00, plus accrued interest.

Based on the testimony of the parties I find that the Tenants provided the Landlords with a security deposit of $800.00 on July 15, 2019. I find that as of the date of the last hearing, October 14, 2025, interest of $43.95 has accrued on the initial $800.00 paid.

Based on the testimony of the parties I find that the Tenants provided the Landlords with an additional $100.00 towards the security deposit on or around August 1, 2022, when the rent was first raised. I find that as of the date of the last hearing, October 14, 2025, interest of $5.49 has accrued on the $100.00 paid on August 1, 2022.

Based on the testimony of the parties I find that the Tenants provided the Landlords with an additional $100.00 towards the security deposit on or around August 1, 2023, when the rent was next raised. I find that as of the date of the last hearing, October 14, 2025, interest of $4.31 has accrued on the $100.00 paid on August 1, 2023.

Based on the testimony of the parties I find that the Tenants provided the Landlords with an additional $100.00 towards the security deposit on or around September 1, 2024, when the rent was next raised. I find that as of the date of the last hearing, October 14, 2025, interest of $1.65 has accrued on the $100.00 paid on September 1, 2024.

I find that the total interest accrued amounts to $55.40.

Are the Tenants entitled to recover the filing fee for this application from the Landlords?

As the Tenants were successful in their application for dispute resolution, I find that they are entitled to recover the $100.00 filing fee from the Landlords under section 72 of the Act.

Conclusion

I grant the Tenants a Monetary Order in the amount of **$9,210.09** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for damage or compensation under the Act, regulation or tenancy agreement	$8,659.69
a Monetary Order for return of the Tenants' security deposit, plus accrued interest	$450.40

authorization to recover the filing fee for the Tenants' application from the Landlords under section 72 of the Act	$100.00
Total Amount	**$9,210.09**

The Tenants are provided with this Order in the above terms and the Landlords must be served with **this Order** as soon as possible. Should the Landlords fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court).

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

Dated: October 14, 2025

Residential Tenancy Branch