DECISION

Introduction

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

- a Monetary Order for unpaid rent under section 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 and pet damage 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 cross-application hearing also dealt with the Tenants' Application for Dispute Resolution under the Act for:

- a Monetary Order for the return of the security and pet damage deposit under section 38 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

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

The Landlord's agent (the Agent) testified that the Tenants were served with the Proceeding Package and some evidence via email on August 14, 2025 and additional evidence via email on October 3, 2025. Both parties signed RTB Form #51 allowing for email service. The Tenants confirmed receipt of the Landlord's Proceeding Package and evidence via emails on August 14, 2025 and October 3, 2025.

Based on the testimony of both parties I find that the Landlord's Proceeding Package and evidence were served on the Tenants in accordance with sections 88 and 89 of the Act.

Tenant L.H. testified that the Tenants served their Proceeding Package and evidence on the Landlord via email on October 3, 2025. The Agent confirmed receipt of same on October 3, 2025. Based on the testimony of both parties I find that the Tenants'

Proceeding Package and evidence were served on the Landlord in accordance with sections 88 and 89 of the Act.

Preliminary Matters

The Tenants' application for dispute resolution claimed the return of the security and pet damage desposit. The description for the above claim provided by the Tenants states:

> There was zero damage to the property other than normal wear and tear (we hung photos and art) - we also had the unit professionally cleaned before our move out date of August 1st - to which I have video evidence of, as well as a receipt- we would also like an additional $3000 due to the financial stress this has caused us with not receiving our deposits in a timely manner - as well as an additional $1500 for the security equipment that disposed of by the landlord.

In the hearing I informed the Tenants' that their application for dispute resolution only claimed the return of their security and pet damage deposits and that to claim the other items described in their description for same, the Tenants would have had to file a monetary claim for damages under section 67 of the Act.

Rule 6.2 of the Rules of Procedure states that the hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application. I find that since the application for dispute resolution did not claim damages other than the return of the security and pet damage deposit, it would be inappropriate to amend the Tenants' claim in this hearing as the Landlord was not provided with a fair opportunity to know and respond to the additional claims made against them. I find that it was not clear in the application for dispute resolution that additional claims beyond the return of the security and pet damage deposit were claimed.

The Tenants have leave to apply for their additional claims and are therefore not prejudiced by my decision not to amend their application in this hearing.

Background and Evidence

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

Evidence was provided showing that this fixed term tenancy began on January 1, 2025 and was originally set to end on December 31, 2025. Both parties agreed that on June 24, 2025 the Tenants provided the Landlord with their notice to end their fixed term tenancy effective August 1, 2025. The Landlord stated that this notice was titled "mutual agreement to end tenancy," but asserted that it was not mutual and that the Tenants unilaterally decided to vacate. This testimony was not disputed by the Tenants and the Tenants confirmed that they moved out on July 31, 2025.

Both parties agree that rent was $3,000.00 due on the first day of each month. The Landlord testified that the Tenants paid a security deposit of $1,500.00 and a pet damage deposit of $1,500.00, both received in December 2024. The Landlord stated that one deposit was received on December 5, 2024, and the other on December 18, 2024, via e-transfer. The Tenants confirmed these payments and testified that they did not differentiate between the security and pet damage deposits when sending the funds.

The Tenants testified that they provided their forwarding address in writing via e-mail on August 14, 2025, and the Landlord confirmed receipt of the forwarding address on that date. The Landlord testified that no portion of the deposits has been returned. The Tenants agreed that they have not received any refund.

The Landlord testified that she is claiming loss of rental income for August and September 2025 as she was not able to find a new tenant for the rental property until October 2025. The Landlord's original application for dispute resolution claimed $9,000.00 in unpaid rent and loss of rental income. The Landlord testified that she is now only seeking $6,000.00 for loss of rental income and originally asked for more in case her loss of rental income was higher at the time of this hearing.

The Landlord testified that the property was first advertised on June 26, 2025, on RentCafe at a reduced rate of $2,750.00 due to market conditions. The Landlord provided a screenshot of a text message sent on June 26, 2025, confirming receipt of a rental inquiry and directing the prospective tenant to complete an application through RentCafe. Additional rental inquiries from RentCafe were entered into evidence. The Landlord also submitted a verified RentCafe listing for the rental property showing the property advertised at $2,750.00 per month. The listing included property details, amenities, and contact information, and indicated that the property was "available now."

The Landlord testified that she left on holiday shortly after the Tenants gave their notice to end tenancy and that the property was managed by staff from the Landlord's property management company during that time. The Landlord stated that additional advertising on facebook marketplace occurred after August 1, 2025, when vacant photos were taken. The Landlord stated that the property was ultimately rented in October 2025 at $2,700.00 per month, with the new tenant paying for the entire month but moving in mid-October.

The Landlord testified that the delay in re-renting was due to timing, summer market conditions, and the property's unique nature. The Landlord submitted screenshots of Facebook Marketplace conversations dated August 1 through August 11, 2025, showing multiple inquiries from prospective tenants about the property. These messages indicate that the property was actively marketed on Facebook Marketplace starting August 1, with responses from the Landlord to prospective tenants confirming interest and scheduling discussions.

The Tenants testified that they gave more than one month's notice and that the Landlord only attempted one viewing during the notice period. The Tenants testified that

the Landlord admitted being out of town and delegated advertising to others, which they argued was insufficient. The Tenants stated that the property was first posted on Facebook on August 1, 2025, and on Kijiji on August 14, 2025, after they had vacated. The Tenants testified that these platforms are the primary sources for rental listings in northern British Columbia and that the Landlord's initial reliance on RentCafe was ineffective. The Tenants argued that the Landlord's absence and delayed advertising caused the vacancy, not their actions.

Analysis

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

The Landlord made no submissions regarding unpaid rent. In the hearing the Landlord testified that they were only seeking damages for loss of rental income, not for unpaid rent. I therefore find that this claim has not been made out and is dismissed without leave to reapply.

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

Under section 7 of the *Act* a landlord or tenant who does not comply with the Act, the regulations or their tenancy agreement must compensate the affected party for the resulting damage or loss; and the party who claims compensation must do whatever is reasonable to minimize the damage or loss.

Pursuant to Policy Guideline 16, damage or loss is not limited to physical property only but also includes less tangible impacts such as loss of rental income that was to be received under a tenancy agreement.

Policy Guideline 5 states that where the landlord or tenant breaches a term of the tenancy agreement or the Residential Tenancy Act, the party claiming damages has a legal obligation to do whatever is reasonable to minimize the damage or loss. This duty is commonly known in the law as the duty to mitigate. This means that the victim of the breach must take reasonable steps to keep the loss as low as reasonably possible. The applicant will not be entitled to recover compensation for loss that could reasonably have been avoided.

The duty to minimize the loss generally begins when the person entitled to claim damages becomes aware that damages are occurring. Efforts to minimize the loss must be "reasonable" in the circumstances. What is reasonable may vary depending on such factors as where the rental unit or site is located and the nature of the rental unit or site. The party who suffers the loss need not do everything possible to minimize the loss or incur excessive costs in the process of mitigation.

Policy Guideline 3 states that the damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a

general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.

In this case, the tenants ended a one-year fixed term tenancy early; thereby decreasing the rental income that the Landlord was to receive under the tenancy agreement for the months of August and September 2025. Pursuant to section 7, the tenants are required to compensate the landlord for that loss of rental income. However, the landlords also have a duty to minimize that loss of rental income by re-renting the unit at a reasonably economic rate as soon as possible.

Based on the advertisements entered into evidence, I find that the Landlord reduced the rental rate sought to $2,750.00 per month. I find that in reducing the rent in response to market conditions, the Landlord mitigated their damages. Based on the evidence of advertisements and responses to rental inquiries entered into evidence, I find that the Landlord started advertising the rental property on June 26, 2025, 2 days after the Tenants provided their notice to end tenancy. I find that additional advertisements were later put up in August of 2025.

I find that the Landlord mitigated their damages by advertising the rental property for rent 2 days after the Tenants provided notice of their intent to breach their tenancy agreement. I note that as stated in Policy Guideline 5, the party who suffers the loss need not do everything possible to minimize the loss. I find that while the Tenants may have liked the Landlord to advertise on different sites other than the RentCafé in June of 2025, this was not required of the Landlord. The Landlord quickly posted an advertisement for the rental property and continued to post more advertisements as time went on. I find that it was reasonable and responsible of the Landlord to have a property management company search for a new tenant while she was away. I find that the Landlord acted reasonably to mitigate the loss caused by the Tenants' breach of the fixed term tenancy agreement.

I find that the Landlord has proved, on a balance of probabilities that the Tenants' breach of the fixed term tenancy agreement caused the Landlord to lose rental income of $3,000.00 per month for August and September of 2025. I find that the Landlord has proved that they mitigated their damages. In accordance with section 67 of the Act, the Landlord is awarded $6,000.00 for loss of rental income.

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit and pet damage deposit in partial satisfaction of the Monetary Order?

Are the Tenants entitled to a Monetary Order for the return of the security and pet damage deposit?

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit and pet damage deposit to the tenant or make an application for dispute resolution to claim against it. As the forwarding address was

provided on August 14, 2025 and the Landlord made their application on August 12, 2025, I find that the Landlord made their application within 15 days of the forwarding address being provided.

Under section 72 of the Act, I allow the Landlords to retain the Tenant's security deposit and pet damages deposits of $1,500.00 each, plus accrued interest of $14.70 on the deposit received by the Landlord on December 5, 2025 and $13.26 on the deposit received on December 18, 2025.

As the Landlord is permitted to retain the security and pet damage deposit under section 38 of the Act, I dismiss the Tenants' claim for the return of their pet and damage deposits, without leave to reapply.

Is the Landlord entitled to recover the filing fee from the Tenant?

As the Landlord was successful in this application for dispute resolution, I find that the Landlord is entitled to recover the filing fee of $100.00 from the Tenant under section 72 of the Act.

Are the Tenants entitled to recover the filing fee from the Tenant?

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

Conclusion

I grant the Landlord a Monetary Order in the amount of **$3,072.04** 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	$6,000.00
authorization to retain all of the Tenant's security deposit and pet damage deposit and accrued interest in partial satisfaction of the Monetary Order requested under section 38 of the Act	-$3,027.96
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	$100.00
Total Amount	**$3,072.04**

The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants 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: October 28, 2025

Residential Tenancy Branch