

DECISION

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear linked applications.

The Landlord's August 15, 2025 Application for Dispute Resolution under the Act is for:

- A Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act;
- A Monetary Order for unpaid rent and utilities, pursuant to section 67;
- A Monetary Order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67 of the Act;
- An authorization to retain all or a portion of the security deposit, under section 38;
- An authorization to recover the filing fee for this application, under section 72.

The Tenants' August 17, 2025 Application for Dispute Resolution under the Act is for:

- An Order for the Landlord to return the security deposit, pursuant to section 38;
- An authorization to recover the filing fee for this application, under section 72.

Agent GC and property manager KR attended the hearing for the corporate Landlord – they will collectively be referred to as the Landlord throughout the decision.

Tenant EH attended the hearing on behalf of both Tenants as seen on the tenancy agreement; I will refer to his testimony collectively as the Tenants.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord states that the Notice of Hearing was missing from the Tenants' email, which contained the Tenants' evidence. Despite this, the Landlord states that they are ready to proceed with the Tenants' application in addition to the Landlord's own application.

The Tenants acknowledge service of the Landlord's Proceeding Package and are duly served in accordance with the Act.

Service of Evidence

The Landlord acknowledges service of the Tenants' evidence and is duly served in accordance with the Act.

The Tenants acknowledge service of the Landlord's evidence and are duly served in accordance with the Act.

Issues to be Decided

Is the Landlord entitled to compensation for damage to the rental unit or common areas?

Is the Landlord entitled to compensation for loss under the Act, regulation and/or tenancy agreement?

Is the Landlord entitled to compensation for unpaid rent and/or utilities?

Is the Landlord authorized to retain any portion of the security deposit? Should the security deposit be doubled due to a failure of the Landlord to comply with section 38 of the Act?

Is either party entitled to recover their filing fee from the other party?

Facts and Analysis

Both parties agree that this tenancy started on September 1, 2024, and was for a fixed term until August 31, 2025. The rent was \$3,400.00 due on the first day of each month, and a security deposit in the amount of \$1,700.00 was paid on August 19, 2024.

Both parties agree that the tenancy ended because the Residential Tenancy Branch (RTB) upheld a One Month Notice to end tenancy for cause and awarded an Order of Possession to the Landlord on November 27, 2024. The Order of Possession was effective seven days after service on the Tenants, and both parties agree that the tenancy ended on December 6, 2024.

Many of the Landlord's claims are related to their assertion that the Tenants are at fault for the breach of the fixed term and subsequently owing several monetary damages. The Tenants believe that the Landlord has unlawfully retained their security deposit.

Note: 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.

Is the Landlord entitled to compensation for damage to the rental unit or common areas?

Out of all their claims, only repainting is considered damage that could require repairs. Other claims are assessed in subsequent sections of this decision.

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

- the tenant(s) have 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

Unit painting - \$300.00

The Landlord states that the rental unit was newly built and estimates that the original painting was completed in June or July 2024. The Landlord states that there were marks on the walls, as seen in the moveout condition inspection report that was signed off by Tenant EH. Given that the tenancy was so short in duration, the Landlord asserts that the damage to the walls were beyond regular wear and tear, and therefore, the Tenants are responsible to pay for some of the cost of repainting the rental unit.

The Landlord has provided an invoice for the paint job, which totals \$1,209.60. However, the Landlord is only seeking \$300.00 from the Tenants.

The Tenants state that all marks on the walls were reasonable wear and tear and not damage that required repair or repainting.

Although I acknowledge the information in the condition inspection report, I conclude that the threshold of damage requiring repair beyond reasonable wear and tear is quite subjective. In absence of any photographs to demonstrate the degree of negligence allegedly caused by the Tenants, I conclude that the Landlord has failed to meet the burden of proof to establish their loss. Therefore, this claim is dismissed without leave to reapply.

Is the Landlord entitled to compensation for unpaid rent and/or utilities?

December 2024 rent and additional surcharges - \$3,588.00

As discussed at the hearing, the Landlord is seeking pro-rated rent for December 2024 for the six days that the Tenants has possession of the rental unit, as no portion of December 2024 rent has been paid.

During the hearing I calculated the math resulting in \$694.45 for the pro-rated days. The Tenants did not dispute this amount and agreed to pay it.

Therefore, I award the Landlord with \$694.45 as pro-rated rent and surcharges for December 2024.

Utilities - \$19.61

The Landlord is seeking unpaid utilities from September and October 2024. The Landlord has provided two invoices, one for each month. These costs cover heating, air conditioning, and hot water. The billing is from a utility management company, which handles these utilities on behalf of the Landlord. As explored at the hearing, they contain the following charges:

September 2024: \$3.15 consumption, \$5.25 administrative fee = \$8.40

October 2024: \$5.96 consumption, \$5.25 administrative fee = \$11.21

The Tenants state they are willing to pay legitimate utility charges.

I conclude that the Tenants are responsible for consumption costs, however, the Landlord is responsible for providing the means of accessing of the utilities. If the Landlord chooses to hire a service for the ease of administration and provision of consumption-based utilities, that is their cost to pay. I find any requirement for the Tenants to pay the Landlord's administration fees as seen in clause #10 of the tenancy agreement to be unenforceable.

Therefore, I award the Landlord \$9.11 for unpaid utility consumption from September and October 2024.

Total awards

The total awards for unpaid rent and utilities are \$703.56.

Is the Landlord entitled to compensation for loss under the Act, regulation and/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

Liquidated damages - \$3,400.00

The Landlord has claimed one month of rent as liquidated damages as stipulated in clause #6 of the tenancy agreement, relating to the Tenants' breach of the fixed term. The clause indicates that these liquidated damages are an agreed pre-estimate of the Landlord's minimum loss of rent. The Landlord explains that this loss is incurred as a result of having to re-renting the unit on short notice and prior to the expiration of the fixed term.

During the hearing, the Landlord further elaborated by stating that the salary of the leasing staff, advertising of the unit, paperwork, and the cost of carrying out credit checks, are included in the pre-estimate in addition to the loss of rental income.

The Tenants argue that the Landlord failed to mitigate their loss by pursuing an end of tenancy, when the Tenants were able and willing to pay rent and preserve the tenancy for the entire fixed term. The Tenants note that they always paid the required rent.

The Tenants also argue that there is insufficient evidence to substantiate the value of the pre-estimated loss as claimed by the Landlord.

Overall, given that the tenancy ended on December 6, 2024, because a previous RTB decision upheld the Landlord's One Month Notice to end tenancy for cause, the Tenants are at fault for the breach of the fixed term. It would be unfair to expect the Landlord to overlook any justified causes to end the tenancy just to preserve the fixed term.

I accept that the liquidated damages are a fair and genuine pre-estimate of losses relating to the breach of the fixed term, especially in the context of such short notice between the previous decision date and the Order of Possession. The Landlord's pre-estimate of loss totaling one month of rent is not unreasonable. I do not find this liquidated damage clause to be a penalty, and accordingly I award the Landlord \$3,400.00.

Unit cleaning - \$450.00

Section 37(2)(a) of the Act indicates that, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

The Landlord states that segments of the rental unit were not reasonably clean, as per the move-out condition inspection report, and therefore they had to hire cleaners to bring the unit to a reasonably clean state. The Landlord has provided an invoice of the cost. The Landlord has not provided photographic evidence to show the state of cleanliness.

The Tenants argue that they spent time cleaning the unit before vacating, and that the rental unit was reasonably clean when they vacated.

Based on the submissions before me, I conclude that the Tenants likely did carry out some cleaning, but some additional cleaning was likely needed to bring the full rental unit to a state of reasonable cleanliness. In the absence of photographs and given the Tenant's counter arguments, I conclude that the Landlord did not fully prove the severity of cleaning required that would need professional cleaners. I accept that the condition inspection report indicates some areas were dirty. In conclusion, I have decided to

award nominal damages in the amount of \$225.00 which is half of the claimed costs incurred by the Landlord.

Carpet cleaning - \$200.00

The Landlord states that they had to carpet clean vomit from the amenity lounge following a party held by the Tenants' guests/occupants/subletters. The Landlord has provided emails to substantiate the events, however, they note that the video of the incident was not included in the evidence for this hearing. The Landlord states that they were able to determine that the persons responsible for the vomit were from the Tenants' unit. The Landlord agrees that there is no booking system for the room.

The Tenants state that their guests/occupants/subletters were not the only ones involved and that anyone can access the lounge.

Since anyone can access the lounge and there is no booking system assigning responsibility of the room to a specific unit for a specific period of time, and since I do not have the video evidence before me, I conclude that the Landlord's submissions fall short of proving that the Tenants' guests/occupants/subletters were solely responsible for the vomit on the carpet. This claim is dismissed without leave to reapply.

One-month free rent incentive clawback - \$3,400.00

The Landlord states that the Tenants were provided with one month of free rent as an incentive in exchange for the Tenants' agreement to fulfil a 12-month fixed term. The tenancy agreement included a 'Rent Incentive Addendum' signed by both parties that discussed the terms of the free rent incentive, including clause #2 which provided for the incentive to be recouped by the Landlord if the Tenants fail to comply with obligations under the tenancy agreement. In this case, that the Tenants failed to comply with the 12-month fixed term.

The Landlord argues that the Tenants enjoyed free rent for September 2024 but did not complete the fixed term, and thus, the incentive must be recouped.

The Tenants state that they were intending on honouring the fixed term, and that the Landlord seeking a clawback of the incentive felt like a scam.

Although I can understand the frustration of the Tenants, as I had previously concluded, I find that the fixed term breach was the Tenants' fault. I therefore find that the Landlord is entitled to recoup the one month of free rent, and award them \$3,400.00.

Three months' free internet incentive clawback - \$165.00

The Landlord states that the Tenants were provided with three months' free internet service, normally a surcharge in the rent valued at \$55.00 per month, as another incentive for agreeing to fulfil a 12-month fixed term tenancy. The Landlord points to the

'Incentive Addendum to Internet Services Agreement' signed by both parties that discussed the terms of the free internet incentive, including clause #2 which provided for the incentive to be recouped by the Landlord if the Tenants fail to comply with obligations under the tenancy agreement. In this case, the Tenants failed to comply with the 12-month fixed term.

The Landlord argues that the Tenants enjoyed three months of free internet but did not complete the fixed term, and thus, the incentive must be recouped.

The Tenants state that they were intending on honouring the fixed term, and that the Landlord seeking a clawback of the incentive felt like a scam.

Since I have found that the fixed term breach was the Tenants' fault, I conclude that the Landlord is entitled to recoup the three months' internet incentive, and award them \$165.00.

Netflix incentive clawback - \$200.00

The Landlord states that the Tenants were provided with a \$200.00 Netflix gift card, as another incentive for agreeing to fulfil a 12-month fixed term tenancy. The Landlord points to the 'Netflix Gift Card Incentive Receipt Confirmation Form' signed by Tenant EH, which includes clause #4 that states the amount of the card must be paid back to the Landlord if the lease ends prior to the fixed term.

The Landlord argues that the Tenants received the gift card but did not complete the fixed term, and thus, the incentive must be recouped.

The Tenants state that they were intending on honouring the fixed term, and that the Landlord seeking a clawback of the incentive felt like a scam.

Since I have found that the fixed term breach was the Tenants' fault, I conclude that the Landlord is entitled to recoup the Netflix gift card value, and award them \$200.00.

Storage incentive clawback - \$150.00

The Landlord states that the Tenants were provided with three months' free storage, normally a surcharge in the rent valued at \$50.00 per month, as another incentive for agreeing to fulfil a 12-month fixed term tenancy. The Landlord points to the 'Incentive Addendum to Storage Locker Agreement' signed by both parties that discussed the terms of the free storage incentive, including clause #2 which provided for the incentive to be recouped by the Landlord if the Tenants fail to comply with obligations under the tenancy agreement. In this case, the Tenants failed to comply with the 12-month fixed term.

The Landlord argues that the Tenants enjoyed three months of free storage for October, November, and December 2024, but did not complete the fixed term, and thus, the incentive must be recouped.

The Tenants state that they were intending on honouring the fixed term, and that the Landlord seeking a clawback of the incentive felt like a scam.

Although I agree with the Landlord for October and November 2024, I note that the tenancy ended on December 6, 2024, and the Tenants have already agreed to pay pro-rated rent including surcharges for this month. I find any other loss relating to this incentive is already considered in the loss of rental income analysis for the previous liquidated damages reward. Therefore, I shall only award the Landlord with \$100.00 representing free storage incentive clawbacks for October and November 2024 and decline to award any further amount for December 2024.

Total awards

The total awards for losses under the Act, regulation, and tenancy agreement totals \$7,490.00.

Is the Landlord authorized to retain any portion of the security deposit? Should the security deposit be doubled due to a failure of the Landlord to comply with section 38 of the Act?

Inspection report protocols

Both parties agree that a move-in condition inspection occurred on September 2, 2024, with both parties participating. The Tenants state that they did not get a copy of the move-in condition inspection report, but they did not raise the issue at the time. The Landlord states that their online portal, where the Tenants regularly paid rent, provided access to the report. The Landlord states that the online portal is described in the tenancy welcome package provided to all new tenants. The Tenants state that they were not aware of the portal.

Both parties agree that a move-out condition inspection occurred on December 6, 2024, with both parties participating. The Tenants state that they did not get a copy of the move-out condition inspection report, and they raised the issue after the tenancy ended. In response, the Landlord provided a copy of the report and advised on how to access it in the online portal.

I conclude that the Landlord fairly assumed that the online portal was a sufficient method of providing copies of the condition inspection reports, and once notified of an access issue, provided a copy to the Tenants. Therefore, I conclude that the Landlord has not extinguished their right to claim against the deposit for damage to the rental unit.

The Landlord states that Tenant EH authorized the Landlord to retain the \$1,700.00 security deposit in partial satisfaction of the list of identified issues as seen on the condition inspection report. During the move-out condition inspection, the Tenant signed the applicable section of the report authorizing the Landlord to retain the full security deposit which is why the Landlord did not immediately make a claim against it.

Tenant EH acknowledges his signature but states that the other parts, such as the amount of the deposit being authorized as retained, were blank when he signed it. Tenant EH states that he never authorized the Landlord to retain the security deposit.

I conclude that, even if Tenant EH's statements are true, it would still have been reasonable for the Landlord to assume that the deposit has been surrendered. I do not find it reasonable for the Tenant to have signed off on the section of the report authorizing a deduction if there was no intention to grant some sort of deduction from the security deposit. If there was no intention for the Tenant to surrender any portion of the deposit, then that section of the report should not have been signed at all.

Given the circumstances, I find it reasonable that the Landlord delayed in claiming against the deposit given that they were under the impression that the Tenant had authorized them to retain the full deposit. I decline to double the deposit against the Landlord.

Security deposit set-off

I authorize the Landlord to retain the full \$1,730.39 security deposit, which includes accrued interest, in partial satisfaction of the monetary awards.

Is either party entitled to recover their filing fee from the other party?

As the Landlord was successful in their application, they are authorized to recover the \$100.00 filing fee from the Tenants.

The Tenants were not successful in their application, and therefore, they may not recover their filing fee from the Landlord.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$6,563.17** under the following terms:

Monetary Issue	Granted Amount
December 2024 pro-rated rent and surcharges	\$694.45
Unpaid utility consumption	\$9.11

Fixed term breach liquidated damages	\$3,400.00
Unit cleaning	\$225.00
One-month free rent incentive clawback	\$3,400.00
Internet incentive clawback	\$165.00
Netflix gift card incentive clawback	\$200.00
October and November 2024 storage incentive clawback	\$100.00
Security deposit, plus accrued interest	-\$1,730.39
Filing fee	\$100.00
Total Amount	\$6,563.17

I grant a Monetary Order to the Landlord in the amount of \$6,563.17. 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 Small Claims Court of British Columbia 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 30, 2025

Residential Tenancy Branch