



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

This hearing dealt with the Landlord's August 20, 2025 Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- compensation for unpaid rent
- compensation for damage in the rental unit
- authorization to retain the security deposit
- recovery of the Application filing fee.

The Tenant's August 20, 2025 Application, crossed to that of the Landlord, was for the return of the security deposit.

The Tenant and the Landlord both attended the scheduled hearing.

### **Service of the Notice of Dispute Resolution Proceeding and evidence**

At the outset of the hearing, each party confirmed the other's service of the Notice of Dispute Resolution Proceeding and hearing materials.

The Tenant confirmed service of evidence from the Landlord.

The Landlord could not confirm the Tenant's service of all document evidence via email for this hearing; however, I advised parties on a document-by-document basis I would advise of any discrepancies should the Landlord identify some piece as not served to them. On this assurance, I proceeded with the hearing in which I referred to specific documents identified herein.

## **Preliminary Matter – Landlord’s amended Application**

The Landlord applied for compensation for monetary loss/other money owed. Under this heading, the Landlord combined both a rent compensation claim as well as reimbursement for damage in the rental unit.

The *Act* s. 64(3) provides that an arbitrator may amend an application for dispute resolution. On this basis, I amended the Landlord’s Application to withdraw their claim compensation for monetary loss/other money owed. I added a separate claim for rent owing, and damage in the rental unit.

## **Issues to be Decided**

- a. Is the Landlord entitled to compensation for unpaid rent?
- b. Is the Landlord entitled to compensation for damage in the rental unit?
- c. Is the Landlord authorized to retain the security deposit?
- d. Is the Tenant entitled to the return of the security deposit?
- e. Is the Landlord eligible for recovery of the Application filing fee?

## **Background and Evidence**

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

The Landlord and the Tenant both provided a copy of their tenancy agreement:

- showing the parties established email as the address for service for the Landlord and the Tenant
- a tenancy start date of November 19, 2024, on a month-to-month basis
- the monthly rent of \$1,850, payable on the 1<sup>st</sup> of each month

The addendum lists the following relevant points:

- the Landlord’s email address as a contact for repairs
- “Tenants allow the landlord the move out inspection”
- Tenant must give a one-month tenancy-end notice

- should the Tenant move out without written notice, the Landlord may keep the deposits as “breach of rental agreement”

a. Is the Landlord entitled to compensation for unpaid rent?

The Landlord on their Application for rent compensation provided the following:

We also lost rent due to the tenant leaving so suddenly at the cost of \$1850. Per the addendum: . . . #15  
– If tenants do not provide a months notice tenant forfeits the deposits.

In a separate written piece to clarify expenses involved with this tenancy, the Landlord provided that “The landlord incurred financial losses as the property was abandoned.”

In the hearing, the Landlord clarified that they only received the tenancy-end notice from the Tenant on July 24, for the tenancy-date of July 31.

The Tenant presented that they attempted to end the tenancy by providing a written notice, specifying the July 31 end date, to the Landlord. This was on the occasion of the Landlord’s visit to the rental unit to collect rent on July 1<sup>st</sup>. As described by the Tenant in the hearing, the Landlord refused the Tenant’s written notice, stating the notice was not proper.

The Landlord in the hearing recalled receiving the July 1<sup>st</sup> rent in person; however, no note from the Tenant regarding the tenancy was handed to them at that time.

The Landlord also provided they received a written note from the Tenant on July 24, setting the tenancy-end date at July 31. The Landlord in the hearing stated this written note was “in the Tenant’s evidence.”

After, the Tenant tried to establish a mutual agreement to end tenancy – using the Residential Tenancy Branch-specific form for that purpose, by emailing this to the Landlord on July 6. the copy in the Tenant’s evidence bears the Tenant’s signature, yet is unsigned by the Landlord. In the hearing, the Tenant described their repeat emails to the Landlord not received, with the response ‘unable to send’.

In the Tenant’s evidence is a message, forwarded to them (notated by the Tenant as July 18) from a neutral third party who was bridging communication between the parties, from the Landlord setting out the Landlord’s request for the Tenant to provide written notice “by post mail otherwise [the Tenant] has to pay August month rent”.

In the hearing, the Tenant stated their knowledge about new tenants being in the rental unit for August 2025. This means the Landlord was not subject to loss of rental income after the

Tenant moved out from the rental unit on July 31. The Tenant in their evidence provided pictures, purportedly of the rental unit, as occupied by replacement tenants, post-tenancy.

*b. Is the Landlord entitled to compensation for damage in the rental unit?*

In the Application, the Landlord presented the following:

Tenant left a large mess in the home clean up was \$1212.75.

The Tenant in the hearing recalled some issues in the rental unit, regarding repair/maintenance, at the start of the tenancy; however, they acknowledged that “we let it go”.

The Landlord in the hearing reviewed the list they provided into the evidence that details the damage in the rental unit, allegedly in place in the rental unit at the end of the tenancy. The Landlord confirmed they attended to the rental unit on July 31 to inspect the rental unit.

The Tenant recalled the final tenancy date, and their request to the Landlord for a final inspection. The described the Landlord attending on the final day, and walking through the rental unit, and even responding ‘no’ when the Tenant asked if the Landlord would complete an inspection meeting.

The Landlord stated they did not enter. Rather, the third-party contact who assisted with the tenancy described entering twice on the final day. They recalled the Tenant informing them of a problem with the refrigerator, then attending again the same day to show the rental unit to potential new tenants.

The Landlord provided an invoice for the amount in question: \$1,212.75. This was for cleaning and maintenance in the rental unit post-tenancy.

The Tenant reiterated that they left the rental unit clean. They provided pictures in their evidence to show this state. They questioned the Landlord’s ability to claim for damage in the rental unit, with no tangible evidence, such as pictures to show the damage in question.

The Tenant pointed out one discrepancy they felt was relevant: the Landlord’s invoice for cleaning in the rental unit is dated August 12. This is, in the Tenant’s estimation, a significant period of time after they moved out from the rental unit. The Tenant stated their knowledge about the rental unit remaining open, meaning other people, not associated with the tenancy, entered the unit and caused damage.

*c. Is the Landlord authorized to retain the security deposit?*

d. Is the Tenant entitled to the return of the security deposit?

The Tenant, on December 4, 2025 paid a security deposit of \$925 and a pet damage deposit of \$925.

In the hearing, the Landlord and Tenant both clarified that the end date of the tenancy was July 31, 2025. This was when the Landlord visited to the rental unit and received the keys from the Tenant.

The Tenant in their record provided a copy of the note they had sent by email to the Landlord on July 11, handwritten with their forwarding address. The Tenant again sent the email to the Landlord on July 26. In the Tenant's evidence is a copy of their outgoing message to the Landlord, dated July 11, with the subject line "My forwarding address". At some point, the Tenant forwarded this to the neutral third party who was assisting with this tenancy.

In the hearing, the Landlord denied receiving a forwarding address from the Tenant.

The Landlord filed this Application at the Residential Tenancy Branch on August 20, 2025.

e. Is the Landlord eligible for recovery of the Application filing fee?

The Landlord paid the Application filing fee amount of \$100 on August 10, 2025.

## **Analysis**

In general, a party that makes an application for compensation against the other party has the burden to prove their claim. This burden of proof is based on a balance of probabilities. An award for compensation is provided for in s. 7 and s. 67 of the *Act*.

To be successful in a claim for compensation, an applicant has the burden to provide sufficient evidence to establish the following four points:

- that a damage or loss exists;
- that a damage/loss results from a violation of the *Act* and/or tenancy agreement;
- the value of the damage or loss; and
- steps taken, if any, to mitigate the damage/loss.

a. Is the Landlord entitled to compensation for unpaid rent?

The *Act* s. 45 provides that a tenant may end a periodic tenancy (that is, a month-to-month agreement, as was this tenancy), effective on a date that is not earlier than one month after the date a landlord receives such notice, and is the day prior to the set rent-payment day.

Following this, s. 45(4) specifies that a notice must comply with s. 52. That section sets that such notice must be in writing, signed/dated, given the rental unit address, and state the tenancy-end effective date.

The Landlord denied receiving a tenancy-end notice from the Tenant until July 24 for the tenancy-end date of July 31.

I find the Tenant credible on their account of attempting to hand a written tenancy-end notice to the Landlord on July 1. I find the Landlord did not accept anything else from the Tenant, other than rent payment at that time. I make this conclusion because of the Landlord's own statements about the conflict with the Tenant over the course of the tenancy.

I find the Landlord's subsequent message to the neutral third party shows the Landlord specified that such notice was to be mailed to them. I find this confirms the Landlord would not accept a notice handed to them in person, even though the reason as such was not stated in the hearing.

Additionally, I find the Tenant's presentation that they subsequently provided the Landlord with a mutual agreement document on July 6, their forwarding address on July 11 via email, with subsequent emails not responded to by the Landlord throughout July, is persuasive. The Tenant was able to bolster this version of event with proof in the form of the mutual agreement document, left unsigned and incomplete. As well, the Landlord stated they were in a different jurisdiction during this timeframe, as well as managing a significant health issue.

In sum, I find it implausible that the Tenant provided nothing in written form concerning the tenancy ending until July 24.

As a matter of equity to the Landlord, in this situation I find the Tenant breached the *Act* with respect to the timing of their notice to the Landlord on July 1<sup>st</sup>. This is not *later* than one month after July 1<sup>st</sup>, because July has 31 days. In fairness to the Landlord, I grant the Landlord a per diem rental rate for one single day as compensation to them. This is a nominal compensation amount given the Tenant's breach, though with consideration to the Tenant that I find there was nothing impeding the Landlord's ability to have the rental unit vacant, in their possession,

or otherwise oversee this tenancy ending, by the first day of the following month. This amount, for one single day of rent, is \$62 based on the 30-day month of August.

*b. Is the Landlord entitled to compensation for damage in the rental unit?*

Concerning damage more generally, the *Act* s. 32(3) sets out that a tenant must repair damage to a rental unit that is caused by their actions/neglect.

Also, the *Act* s. 37 sets out that a tenant must leave a rental unit reasonably lean and undamaged except for reasonable wear and tear.

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

- a tenant failed to comply with the *Act*/tenancy agreement
- loss/damage resulted from this failure to comply
- the amount/value of the damage/loss
- a landlord acted reasonably to minimize damage/loss.

The Landlord did not present a documented condition inspection report. The Landlord has a record of photos that are purportedly in place to show the condition of the rental unit after the Tenant moved out. There is no recorded documentation to show this is accurate. I find this draws the accuracy of the Landlord's record of damage into question.

I find there is insufficient evidence to justify the costs proffered by the Landlord for damage in the rental unit. In order to verify this and present it accurately, the Landlord required a record of a final condition inspection, jointly with the Tenant; however, they did not do so.

For these reasons, I grant no compensation to the Landlord for alleged damage in the rental unit. In the alternative, I find the costs are not justified with respect to actual evidence of damage. The Landlord did not provide a picture record of said damage. A list, as provided by the Landlord for this hearing (and which the Tenant legitimately questioned as accurate given their knowledge of what transpired at the property after they moved out) is insufficient for these purpose.

In sum, I grant no compensation to the Landlord for damage in the rental unit. I dismiss this piece of the Landlord's claim, without leave to reapply.

*c. Is the Landlord authorized to retain the security deposit?*

*d. Is the Tenant entitled to the return of the security deposit?*

The *Act* s. 23 and s. 35 set out that, at both the start and the end of a tenancy, a landlord and a tenant must jointly inspect the condition of the rental unit, and a landlord must complete a report of the rental unit condition. This information is accurately reproduced in the tenancy agreement the parties had in place for this tenancy.

I find the Landlord did not complete a documented condition inspection meeting either at the start or the end of the tenancy. The fact that no meeting was not documented precludes the Landlord's right to claim against the security deposit/pet damage deposit as set out in s. 24(c) and s. 36.

As well, the Landlord is obligated to offer at least 2 opportunities to the Tenant for an inspection, as set out in s. 35(2).

The Landlord did not show to any degree that they scheduled a move-out inspection at the rental unit, and there is no document as such in the record. I find, for reasons of no scheduled/offered inspection, and no documented condition inspection report, that the Landlord is precluded from applying against either of the deposits.

The *Act* s.38(4) provides that a landlord may retain a deposit amount, if at the end of a tenancy a tenant agrees to that in writing, in order to pay a liability or obligation.

Where a landlord does *not* have a tenant's agreement in writing, the *Act* s. 38(1) states that within 15 days of the later date of either the tenancy-end date, or the Tenant's forwarding address provided, a landlord must either repay any deposit amount with interest, or apply to claim against the deposits.

Further, the *Act* s. 38(6) provides for a double deposit amount paid to a tenant where a landlord does not either return the deposits, or claim against them.

On this present Tenant Application, I find as follows:

- Each deposit amount paid by the Tenant was \$925.
- The Tenant provided a forwarding address to the Landlord via email on July 11, 2025. I find this is shown in the Tenant's evidence.
- The tenancy-end date was July 31, 2025. This is the latter of the two dates specified in s. 38(1) of the *Act*.

- I find the Landlord did not apply to retain any deposit amounts, and did not return the deposit amounts to the Tenant, within 15 days of the tenancy-end date. Therefore, s. 38(6) applies in this scenario, and the Landlord must pay to the Tenant double of each deposit amount.

The addendum to the tenancy agreement contains a term that sets out the Tenant's default forfeit of deposit amounts, in the case where they do not provide one month's written notice to the Landlord. I find this term does not conform with s. 38 of the *Act*; therefore, I declare this term of the tenancy agreement addendum void and of no effect. A deposit may *not* be automatically forfeited in this manner. Concerning a contract term versus the *Act*, s. 5 of the *Act* provides that parties may not avoid or contract out of the *Act*. Any attempt at doing so is of no effect.

For the reasons set out above, I grant the Tenant a Monetary Order in the amount of \$3,700. As per s. 72(2) of the *Act* (which authorizes deduction from any deposit amount where an amount is payable from a tenant to a landlord), I deduct the \$62 compensation amount that I specified above.

e. *Is the Landlord eligible for recovery of the Application filing fee?*

I find the Landlord was not successful in this Application; therefore, I grant no recovery of the Application filing fee.

## **Conclusion**

As above, I dismiss the Landlord's Application in its entirety, without leave to reapply.

I grant to the Tenant a monetary order for \$3,638, as set out above.

I provide the Tenant with this Monetary Order in the above terms, and the Tenant must serve it to the Landlord as soon as possible. Should the Landlord fail to comply with this Monetary Order, the Tenant may file this Monetary Order in the Small Claims Division of the Provincial Court where it will be enforced as an Order of that Court.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: November 6, 2025