

DECISION

Introduction

The Tenants seek the following relief under the *Residential Tenancy Act* (the “Act”):

- a monetary order pursuant to s. 67 for compensation or other money owed;
- an order pursuant to s. 38 for the return of the security deposit and/or the pet damage deposit; and
- return of the filing fee pursuant to s. 72.

The Landlord, in its own application, seeks the following relief under the *Act*:

- a monetary order pursuant to ss. 38 and 67 seeking compensation for unpaid rent by claiming against the deposit;
- a monetary order pursuant to ss. 67 and 38 to pay for repairs caused by the tenant during the tenancy by claiming against the deposit; and
- a monetary order pursuant to ss. 67 and 38 compensating for loss or other money owed by claiming against the deposit; and
- return of the filing fee pursuant to s. 72.

Z.A. attended as the Tenant and indicated he was speaking on behalf of his co-tenants who were not present. S.H. attended as the Landlord’s agent.

The parties affirmed to tell the truth during the hearing. I reminded the parties of Rule 6.11 of the Rules of Procedure, which prohibits them from recording the hearing themselves, and noted that the hearing was automatically recorded by the Residential Tenancy Branch.

Service of the Applications and Evidence

The Tenant advised that the Landlord was served with their application and evidence. The Landlord’s agent acknowledged receipt of the application on October 22, 2025, with additional evidence received afterwards. I am told by the Landlord’s agent that the additional evidence was received at least 14 days prior to the hearing.

I have been provided with tracking information showing the Tenant’s application was sent via Canada Post on September 25, 2025, which was the same day labour action started amongst unionized Canada Post employees.

I find that the Landlord was served with the Tenant's application and evidence in accordance with ss. 89(1)(c) and 88(c) of the *Act*, being sent by Canada Post. I accept that the first package was received on October 22, 2025, with the delay caused by the Canada Post labour action, and the additional evidence received later but at least 14 days prior to the hearing in compliance with Rule 3.14 of the Rules of Procedure.

The Landlord's agent advised that each Tenant was served individually with packages sent to the respective addresses for service listed in the Tenants' application. I am told by the agent that the Landlord's application was served via registered mail sent on November 7, 2025 with additional evidence later served via regular mail sent on November 27, 2025. The Tenant acknowledged receipt of the Landlord's application and evidence.

I find that the Landlord served its application and evidence in accordance with ss. 89(1)(c) and 88(c) of the *Act* with the application sent via registered mail on November 7, 2025 and the additional evidence sent via regular mail sent on November 27, 2025. Pursuant to s. 90(a) of the *Act*, I deem that the tenants received their respective packages on November 12, 2025 and December 2, 2025, being 5 days after the packages were sent.

Preliminary Issue – Overlapping Claims

Review of the applications and the description for the claims provided by the Tenants and the Landlord show overlapping claims, which is to say claims filed by one that is responsive to the other.

For example, the Tenants seek compensation for \$3,145.00 for an additional security that was to be applied to last month's rent. The Landlord seeks compensation for unpaid rent for last month's rent. Both sides confirm, however, that partial rent payment for rent was paid in the last month and that the additional security was obtained before the tenancy started.

Similarly, the Tenants' claim for the return for its security deposit is directly tied to the Landlord's claim for compensation for damages due to a purported agreement by some of the co-tenants for the Landlord to retain part of the security deposit.

In the interest of addressing the issues at the same time, I have consolidated the overlapping claims and they will both be determined at the same time.

Issues to be Decided

- 1) Is the Landlord entitled to compensation for unpaid rent or utilities? If not, are the Tenants entitled to compensation for the payment of the additional security paid to the Landlord?
- 2) Is the Landlord entitled to compensation for loss resulting from the Tenant's breach of the *Act*, Regulations, or tenancy agreement?

- 3) Is the Landlord entitled to retain all or a portion of the security deposit? If not, is the Landlord entitled to return of their security deposit?
- 4) Is either side entitled to the return of their filing fee?

Evidence and Analysis

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

Legal Test Applicable to the Monetary Claims

Under s. 67 of the *Act*, the Director may order that one party compensate the other if damage or loss result from their failure to comply with the *Act*, regulations, or tenancy agreement.

Policy Guideline 16, summarizing the relevant principles from ss. 67 and 7 of the *Act*, sets out that to establish a monetary claim, the arbitrator must determine whether:

1. A party to the tenancy agreement has failed to comply with the *Act*, the regulations, or the 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.
4. The party who suffered the damage or loss mitigated their damages.

The applicant seeking a monetary award bears the burden of proving their claim.

General Background

The parties confirm the following details with respect to the tenancy:

- The Tenants moved into the rental unit on September 1, 2024.
- The Tenants moved out of the rental unit on August 30, 2025.
- Rent of \$6,095.00 was due on the first day of each month as well as a payment of \$200.00 for utilities due at the same time.

I have been given a copy of the written tenancy agreement.

Evidence

The Tenant and the Landlord's agent confirm that the Landlord received \$6,095.00 from the Tenants on June 24, 2024.

An email dated June 20, 2024, sent by the Landlord to one of the Tenants, said that the Landlord would need "\$6095 - half of this is damage deposit, and half is prepayment of half of aug 2025". The Tenant's evidence contains a copy of the e-transfer, dated June 24, 2024, in which these funds were sent, with a description saying that it was for the security deposit and half of August 2025 rent.

The Tenant argued that the payment of the additional funds constituted an improper deposit taken by the Landlord, which he says was paid due to concerns with securing housing. The Tenant confirmed, however, that in August 2025 the Tenants paid \$3,150.00 for rent and utilities. Considering this, I asked the Tenant what it was that he was seeking. The Tenant says that he is seeking payment of the improper deposit or a finding that the Tenants' obligation to pay the remaining rent in August 2025 is washed out.

The Landlord's agent confirmed that the Tenants made payment of \$3,150.00 for August 2025, saying the Landlord was seeking payment of the remainder on the basis that the Tenants were seeking payment of the additional deposit, which he says was freely offered by one of the Tenants.

Both the Tenant and the Landlord's agent confirm that the Landlord returned \$1,547.50 to the Tenants on November 3, 2025. The Landlord's agent advised that this included payment of interest, with the Landlord's evidence containing a calculation from the Residential Tenancy Branch indicating interest payable of \$65.33 based on a security deposit of \$2,950.00.

The Landlord's agent indicated that the security deposit was not explicitly specified in the tenancy agreement, saying the security deposit of \$2,950.00 in the calculation provided was based on the Tenants payment of \$3,150.00 in August 2025 against the \$6,095.00 received in June 2024.

The Tenant also says that the Tenants are seeking the return of the balance of their security deposit.

The Landlord's agent says that 2 of the Tenants were present at the move-out condition inspection and signed off consenting to the Landlord retaining \$1,470.00 from the deposits.

Both the Landlord and Tenants have provided me a copy of the condition inspection report.

The condition inspection report indicates the move-in condition inspection was completed on September 1, 2024 and signed by 2 of the Tenants who were present. A notation on the report, which is signed by 1 of the Tenants, indicates the move-in report was received on September 6, 2024. The Tenant confirmed that the move-in condition inspection report was received on that date.

The move-out portion of the condition inspection report indicates it was completed on August 30, 2025. Again, it was signed by 2 of the Tenants who also signed that they agreed with the report's contents and that they Landlord could retain \$1,470.00 from the security deposit.

The Tenant confirmed that his co-tenants signed off on the move-out condition inspection report that they agreed to the Landlord retaining \$1,470.00 from the security deposit. I am told by him, however, that they have since taken the view that the deductions were inappropriate and have since withdrawn their consent.

The Landlord's agent further explained that the Landlord is seeking \$400.00 in compensation resulting from the Tenant's failure to vacate the rental unit by 9:00 AM on August 30, 2025, as required under clause 4 of the tenancy agreement. I am told by him that this includes \$200.00 in liquidated damages triggered by clause 13 of the tenancy agreement, as well as \$200.00 for pro-rated rent owed for overholding until later in the day on August 30, 2025.

I asked the Tenant whether the Landlord had been given a forwarding address. The Tenant says that rent was paid by email, though he acknowledged that he did not specify which email the security deposit were to be returned to. The Landlord's agent denies receipt of a forwarding address and it was only after the Tenants' their application did he receive note of their addresses.

1) Is the Landlord entitled to compensation for unpaid rent or utilities? If not, are the Tenants entitled to compensation for the payment of the additional security paid to the Landlord?

Section 19(1) of the *Act* states that a landlord must not require or accept either a security deposit or pet damage deposit that is greater than half a month's rent payable under the tenancy agreement.

The term "security deposit" is defined in s. 1 of the *Act*, and it is money paid, or value or right given, by or on behalf of a tenant that is held as security for any liability or obligation of the tenant respecting the residential property.

In brief, I find that the payment of funds by the Tenants, even as security on the last month's rent as occurred here, meets the definition of security deposit under s. 1 of the *Act*.

It is undisputed that the Tenants paid \$6,095.00 on June 24, 2024, which comprised half a month's rent for August 2025 and the security deposit. This is confirmed by the e-transfer as well as the email from Landlord to the one of the Tenants' dated June 20, 2024.

The tenancy agreement is silent on the Tenants' obligation to pay a security deposit. I find, however, that the parties mutually understood the security deposit would be half a month's rent, as confirmed by the June 20, 2024 email from the Landlord and the e-transfer record. Simply stated, I find that the security deposit was \$3,047.50, being half of the payment of \$6,095.00 made on June 24, 2024.

The Tenant characterizes the other half of the June 24, 2024 payment as one effectively coerced by the Landlord given their need for housing. The Landlord's agent says the Tenants offered the payment due to their own credit issues. Irrespective of whether the

funds were required by the Landlord or offered by the Tenants, I find it makes no difference. Section 19(1) of the *Act* is explicit that a landlord may not require or accept a security deposit exceeding half a month's rent. In either scenario, the Landlord was prohibited by s. 19(1) of the *Act* to take the funds exceeding half a month's rent.

Despite this, the parties confirm the Tenants made payment of \$3,150.00 for rent and utilities when their obligation under the tenancy agreement was to pay \$6,295.00. In effect, I find that the Tenant's claim has been dealt with by their partial payment to the Landlord in August 2025. This is permitted under s. 19(2) of the *Act*, which allows tenants to deduct payment of a security deposit exceeding half a month's rent from rent owed to the Landlord.

However, I find that there was a small shortfall in payment owed to the Landlord in August 2025. To be clear, the Landlord was holding \$3,047.50 as additional security contrary to s. 19(1) of the *Act*, which the Tenants were entitled to deduct from rent owed. The tenants then made payment of \$3,150.00, resulting in a shortfall of \$97.50 owed to the Landlord on their obligation to pay rent and utilities (\$6,295.00 - \$3,047.50 - \$3,150.00).

Accordingly, I find that the Tenants were entitled to deduct \$3,047.50 from rent owed to the Landlord under s. 19(2) of the *Act* and that they did so in August 2025. I dismiss the Tenants' claim for compensation on this basis since they have not suffered a loss as a result.

Correspondingly, I find that there was a small shortfall in rent and utilities owed to the Landlord, totalling \$97.50, which I order be paid by the Tenants.

2) *Is the Landlord entitled to compensation for loss resulting from the Tenant's breach of the Act, Regulations, or tenancy agreement?*

The Landlord seeks \$400.00 in compensation on the alleged overholding of the rental unit.

I find that there is no merit in the Landlord's claim. To be clear, the tenancy agreement states that the Tenants were required to vacate the rental unit at 9:00 AM on August 30, 2025, though they were also required to pay monthly rent on the first day of each month. This means that the Tenants were effectively deprived of occupancy in the rental unit of a little under 2 days based on their monthly rent obligation, which I find to be improper and unconscionable. Resulting from this, I find that the Tenants did not technically overhold the rental unit, such that clause 13 of the tenancy agreement has not been triggered.

Even if I am wrong on this point, I find that slight breach of the move-out requirement at 9:00 AM to be trivial resulting in no tangible loss to the Landlord.

Accordingly, I dismiss the Landlord's claim for compensation of \$400.00, without leave to reapply.

3) Is the Landlord entitled to retain all or a portion of the security deposit? If not, is the Landlord entitled to return of their security deposit?

Section 38(1) of the *Act* sets out that a landlord must within 15-days of the tenancy ending or receiving the tenant's forwarding address in writing, whichever is later, either repay a tenant their deposits or make a claim against the deposits with the Residential Tenancy Branch.

First, I find that the Tenants have not yet provided their forwarding address since an email address is insufficient. Section 38(1) of the *Act* imposes a short time frame for landlords to file applications claiming against the deposits held as security. Sections 89(2)(d) and 88(d) of the *Act* contemplate service of document by registered mail or regular mail sent to the forwarding address. Simply put, the requirement to provide a forwarding address is tied to the Landlord's obligation to both file an application or return the funds by sending them to the forwarding address. Again, email is insufficient and does not constitute a forwarding address for which mail or registered mail can be sent.

Further, s. 38(1) of the *Act* does not apply if at the end of a tenancy a tenant agrees in writing that the landlord may retain a portion or all of the security deposit to pay a liability or obligation of the tenant as provided for under s. 38(4)(a) of the *Act*.

I find that the condition inspection reports were completed in accordance with ss. 23 and 35 of the *Act*, such that extinguishment under ss. 24 and 36 of the *Act* do not apply. Resulting from this, I find that s. 38(5) of the *Act* does not apply.

I find that the condition inspection report is unequivocal that the Tenants agreed that the Landlord could retain \$1,470.00 from the security deposit. The Tenant confirms this but argues those individuals later changed their mind. I find once the Tenants, who are jointly and severally responsible for their respective obligations under the tenancy agreement, cannot resile from their written consent after it was freely given when the move-out inspection was conducted on August 30, 2025.

I accept that the Landlord returned \$1,547.50 to the Tenants on November 3, 2025, which comprised interest of \$65.33. The accounting for this, however, does not correspond with the amount the Tenants consented to be retained by the Landlord considering that interest deducted from the amount returned totalled \$1,482.17.

I note that interest was calculated based on a security deposit of \$2,950.00, this despite the security deposit being \$3,047.50. Accounting for this error, I find that the Tenants are entitled to \$68.39, accounting for interest payable of the security deposit of \$3047.50 calculated over the same period the Landlord calculated interest, being from June 24, 2025 to November 3, 2025.

Finally, I permit the Landlord retain \$97.50 from the security deposit on the amount awarded for unpaid rent and utilities.

Accounting for the various amounts, I find that the Tenants are entitled to the following amount:

Security Deposit	\$3,047.50
Interest Owed	\$68.39
Less Rent/Utilities Owed to the Landlord	(\$97.50)
Less Deduction Consented to by the Tenants	(\$1,470.00)
<u>Less Funds Returned to Date:</u>	<u>(\$1,547.50)</u>
TOTAL	\$0.89

Accordingly, I grant the Tenants \$0.89 for the balance of the security deposit and interest for which they are entitled.

4) Is either side entitled to the return of their filing fee?

I find that neither side is entitled to their filing fee. I dismiss both claims under s. 72(1) of the *Act*, without leave to reapply.

Conclusion

I grant the Landlord \$97.50 in unpaid rent and utilities.

The Landlord's claim for \$400.00 in compensation for overholding is dismissed, without leave to reapply.

I find that the Landlord may retain \$1,470.00 from the security deposit based on the Tenants' consent granted in accordance with s. 38(4)(a) of the *Act*.

Accounting for the various amounts, I find that the Tenants are entitled to return of \$0.89, being the balance of their security deposit and interest, which I order the Landlord pay.

The Tenants must serve the monetary order on the Landlord and may enforce it at the BC Provincial 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: December 18, 2025

Residential Tenancy Branch