

DECISION

Introduction

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

- a monetary order pursuant to ss. 67 and 38 seeking compensation for unpaid rent by claiming against the deposit;
- 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.

The Tenant files his own application, seeking an order pursuant to ss. 67 and 38 of the *Act* for the return of the security deposit.

A.H. attended as the Landlords’ agent. R.M. attended as the Tenant.

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 Landlords’ agent testified that she served the Tenant with the Landlords’ application and evidence by way of registered mail sent to the Tenant’s forwarding address on October 30, 2025. I have been given a picture of the registered mail package as proof of service, as well as a screenshot of the package tracking showing it was received on November 3, 2025.

The Tenant confirmed receipt of the Landlords’ application and evidence.

I find that the Landlords’ served their application and evidence in accordance with ss. 89(1)(d) and 88(d) of the *Act* by way of registered mail sent to the Tenant’s forwarding address. I accept it was received by the Tenant on November 3, 2025, as confirmed by him in his testimony as well as the tracking information for the package provided by the Landlord.

I asked the Tenant whether he served his application and evidence on the Landlords. The Tenant failed to provide a clear response, referring to his filing the application with

the Residential Tenancy Branch. The Tenant later clarified that he did not send the documents to the Landlords. The Landlords' agent denies anything had been served by the Tenant.

Rule 3.1 requires applicants, in this case the Tenant on his application, to serve each named respondent with their application and evidence. Rule 3.14 requires applicants to similarly serve additional evidence on each named respondent, doing so such that each respondent receives the additional evidence at least 14 days prior to the hearing.

I find that the Tenant failed to serve his application and evidence.

Dealing first with the Tenant's application, his failure to serve it means that I dismiss it since it was not served.

I would add, however, that since the Landlords are claiming against the security deposit, Policy Guideline 17 holds that any balance of the security deposit must be returned to a tenant following a landlord's application against the deposit. Simply put, the dismissal of the Tenant's application has no substantive effect on the relief he is seeking in his application. Irrespective of whether the Tenant filed or not, any amounts owed from the security deposit would have to be returned to the Tenant after adjudication of the Landlords' claims against the deposit.

Concerning the Tenant's evidence, I find that since it was not served on the Landlords or their property manager, it would be procedurally unfair to include or consider it. The Landlords have the right to have clear notice of evidence the Tenant intends to rely upon at the hearing. That has not occurred. Accordingly, I exclude the Tenant's documentary evidence, which shall not be relied upon by me.

Issues to be Decided

- 1) Are the Landlords entitled to compensation for lost rental income?
- 2) Are the Landlords entitled to compensation caused by the Tenant's breach of the *Act*, Regulations, or tenancy agreement?
- 3) Are the Landlords entitled to retain all or a portion of the Tenant's security deposit?
- 4) Are the Landlords 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.

Evidence and Submissions

The Tenant and Landlords' agent confirm the following details with respect to the tenancy:

- The tenancy started on July 3, 2025.
- The Tenant turned back possession of the rental unit to the Landlords' agent on August 3, 2025.
- Rent of \$1,750.00 was due on the first day of each month.
- A security deposit of \$875.00 was paid by the Tenant, which is still held by the Landlords.

The Landlords have provided a copy of the written tenancy agreement in their evidence.

The Landlords' agent indicates that the Tenant had a fixed term tenancy ending on June 30, 2026. This is confirmed by the tenancy agreement in evidence.

The agent testified that 2 weeks into the tenancy the Tenant contacted her to tell her that he would be moving out of the rental unit at the end of July 2025. The agent says that closer to the end of the month, the Tenant asked for a few more days before he moved out, saying they agreed he could vacate on August 3, 2025. I am further told by her that the Tenant asked for more time on August 3, 2025, though she insisted he had to leave.

The agent advised that the Landlords were seeking lost rental income for August 2025 in the amount of \$1,750.00, as well as liquidated damages of \$1,750.00 due to the Tenant ending his tenancy early.

The agent says that she secured a new tenant to move into the rental unit, with them doing so on August 15, 2025. I am told that the new tenant pays \$1,700.00 in rent to the Landlords and that for August 2025, they paid half a month's rent since they moved in on the 15th.

The agent further directed by attention to clause 11 of the tenancy agreement, which states the following:

11. LIQUIDATED DAMAGES

IF THE TENANT TERMINATES THE TENANCY BEFORE THE DATE SPECIFIED IN CLAUSE 4, THEN THE LANDLORD SHALL CHARGE AND THE TENANT AGREES TO PAY THE SUM OF \$ 1750.00 AS LIQUIDATED DAMAGES AND SUCH SUM MAY BE DEDUCTED FROM THE SECURITY DEPOSIT OR OTHERWISE COLLECTED. SUCH PAYMENT SHALL RELEASE THE TENANT FROM LIABILITY TO PAY RENT FOR THE BALANCE OF THE TERM OF THIS AGREEMENT. THE TENANT AGREES TO GIVE ONE-MONTH'S NOTICE, PLUS PAY THE EQUIVALENT OF ONE MONTH'S RENT AS LIQUIDATED DAMAGES.

The Landlords' agent says that the Landlords had to pay her property management company a leasing fee equivalent to half a month's rent plus tax. I have been given a receipt dated July 15, 2025 paid by the Landlords for the leasing fee, which totalled \$918.75. The agent says that this fee was returned to the Landlords afterwards due to

the Tenant leaving early. As a result, the agent claims \$1,750.00 in liquidated damages due to the lease fee.

The Tenant confirms that he gave notice mid-July 2025 that he would be ending his tenancy early. He says he was told by the agent that the Landlords were okay with him vacating on August 3, 2025.

The Tenant argued that the tenancy ended by agreement after he was told by the Landlords' agent that the rental unit was in an acceptable state and that it was fine for him to leave early, though also acknowledges that the agent said they would have to secure a new tenant. I am told by the Tenant that these conversations were always over the telephone.

The Tenant says that he was never told he would be liable for leaving early and says that he would not have done so if he knew otherwise. The Tenant says that this is the first time he signed a tenancy agreement.

The Landlords' agent denies any agreement with the Tenant. She emphasized that she acknowledged to the Tenant that he would be leaving early, though never indicated that it was acceptable or that the Landlords would return the security deposit.

Both the Landlords' agent and the Tenant confirm that the Landlords received the Tenant's forwarding address on October 22, 2025.

Analysis

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.

I have little difficulty finding that the tenancy ended contrary to the fixed term set out under clause 4 of the tenancy agreement. The tenancy agreement is clear that there

was a fixed term ending on June 30, 2026. It is undisputed that the Tenant notified the Landlord in mid-July 2025, weeks after moving in, that he would be leaving and that he ultimately left on August 3, 2025.

Further, s. 45(2) of the *Act* permits the Tenant to end his tenancy, though first must do so by giving a written notice to end tenancy with an effective date no sooner than the end of the fixed term. I have no evidence to support that the Tenant's notice in mid-July 2025 was in writing. Once more, there is no dispute that ending the tenancy at the end of July 2025 failed to meet the notice requirements under s. 45(2) of the *Act* even if there was written notice since the fixed term ended on June 30, 2026.

The Tenant argued that there was a mutual agreement to end tenancy. Under s. 44(1)(c) of the *Act*, a tenancy may end if a landlord and tenant agree in writing to end the tenancy. Even based on the Tenant's testimony, he admits there was no written agreement to end the tenancy early, merely a conversation to that effect.

I would add, however, that I find it more likely that there was no such agreement considering the agent's denial at the hearing as well as the fact that there would be no real benefit for the Landlords to do so considering the tenancy agreement in evidence. I find it more likely that in the conversations between the Tenant and the Landlords' agent, the agent merely acknowledged that the Tenant was leaving, though never said his security deposit would be returned or that there would be no further claims.

I find that the Landlords have established that the Tenant breached s. 45 of the *Act* and clause 4 of the tenancy agreement.

The Landlords seek lost rental income and liquidated damages. To be clear, clause 11, on its plain construction, is clearly intended to compensate the Landlords for lost rental income resulting from the breach of a fixed term. I emphasize the following wording:

SUCH PAYMENT SHALL RELEASE THE TENANT FROM LIABILITY TO PAY RENT FOR THE BALANCE OF THE TERM OF THIS AGREEMENT.

I find that clause 11 acted as liquidated damages releasing the Tenant from liability for rent owed for the balance of the fixed term.

I find that clause 11 is not a penalty and does not compel compliance, acting as a pre-estimate of damages for lost rental income resulting from the breach of the fixed-term tenancy agreement when the agreement was made. Indeed, the total liability that may result for ending the tenancy early could easily exceed a month's rent, such that the liquidated damages under clause 11 acts as much for the Tenant's benefit as it does to the Landlords.

As a result, I find that the Landlord is entitled to \$1,750.00 in compensation in liquidated damages resulting from the Tenant's breach of clause 4 of the tenancy agreement. I find that this is the total compensation the Landlords are entitled to for lost rental income. Given the claim is for liquidated damages, which is a pre-estimate of damages

and an obligation owed under the tenancy agreement, I find that mitigation is not a relevant consideration under the circumstances.

The Landlords also seek cost for re-renting the rental unit. I find that they are not entitled to this amount. To be clear, I accept that the Landlords did pay \$918.75 to their property manager. The receipt in evidence, dated July 15, 2025, suggests that this was paid to secure the Landlords' tenancy with the Tenant since half a month's rent under the tenancy agreement was \$875.00, whereas the subsequent tenant's rent was \$1,700.00, meaning half a month's rent would have been \$850.00 for them. I do not agree that the Tenant should be responsible for a fee paid by the Landlords to the property manager to secure his tenancy. In any event, the agent confirms that this amount was later returned to the Landlords, which means the Landlords suffered no loss as a result.

The agent argued that the property manager lost income. That may well be the case. However, the Tenant does not have an obligation to ensure the property manager earns income on leasing the rental unit since it is acting for the Landlords as its agent. Further, the property manager's decision to return the fee paid by the Landlords is outside the control of the Tenant. That may have been a business decision on its part, but not one for which the Tenant should be held responsible.

The Landlord is entitled to liquidated damages of \$1,750.00 resulting from breach of clause 4 of the tenancy agreement for lost rental income and grant it this amount. I dismiss the claim for the re-rental fee, without leave to reapply.

Security Deposit

Policy Guideline #17 states the following with respect to the retention or the return of the security deposit through dispute resolution:

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the *Act*, on:
 - a landlord's application to retain all or part of the security deposit; or
 - a tenant's application for the return of the deposit.

unless the tenant's right to the return of the deposit has been extinguished under the *Act*. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for dispute resolution for its return.

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.

I find that the Landlords received the Tenant's forwarding address on October 22, 2025, as confirmed by the testimony of the parties at the hearing. Further, I have been given a form RTB-47 in the Landlords' evidence confirming receipt on October 22, 2025.

Review of the information on file shows that the Landlords filed this application on October 30, 2025. As a result, I find that they filed within the 15-day window imposed by s. 38(1) of the *Act*.

Considering the amount granted to the Landlords, I direct under s. 72(2) of the *Act* that the Landlords retain the Tenant's security deposit and interest owed on the security deposit in partial satisfaction of what they are owed.

Interest is owed under s. 38(1)(c) of the *Act*. In this case, I find that interest is \$4.14. I have determined this amount by use of the Residential Tenancy Branch's deposit interest calculator, calculating interest from when the tenancy started on July 3, 2025 until the date of this decision when the security deposit was released to the Landlords.

In total, \$879.14 will be offset from the final monetary order (\$875.00 + \$4.14).

Filing Fee

I find that the Landlords had mixed success in their application. On balance, however, I find that they are entitled to their filing fee considering that they were forced to advance the claim against the security deposit due to the Tenant's early end to the tenancy.

I order under s. 72(1) of the *Act* that the Tenant pay the Landlord's \$100.00 filing fee.

Conclusion

I grant the Landlords \$1,750.00 in liquidated damages for lost rental income.

The Landlords claim for re-rental costs is dismissed, without leave to reapply.

I grant the Landlords their \$100.00 filing fee.

I direct that the Landlords retain the security deposit and interest, totalling \$879.14, in partial satisfaction of what they are owed by the Tenant.

In total, I order under ss. 67 and 72 of the *Act* that the Tenant pay **\$970.86** to the Landlords (\$1,750.00 + \$100.00 - \$879.14).

The Landlords must serve the monetary order on the Tenant and may enforce it at the Provincial 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: January 27, 2026

Residential Tenancy Branch