

DECISION

Introduction

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

- 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 recover the filing fee for this application from the Tenant under section 72 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act

It also dealt with the Tenant's application for:

- 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
- a Monetary Order for the return of all or a portion of their security deposit and/or pet damage deposit under sections 38 and 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Landlord J.V. and T.B. attended the hearing for the Landlord.

Tenant K.J.R.L. and Tenant A.D. attended the hearing for the Tenant.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Tenant confirmed receipt of the Landlord's Proceeding Package through registered mail and that they had enough time to review it. Therefore, I find the package properly served per section 89 of the Act.

The Landlord confirmed receipt of the Tenant's Proceeding Package and that they had enough time to review it.

Section 71 (2)(c) of the Act allows arbitrators to find a document was sufficiently served.

Due to this confirmation, I find the Proceeding Package sufficiently served under section 71 (2) of the Act.

Service of Evidence

The Tenant confirmed receipt of the Landlord's evidence through registered mail and in person service, and that they had enough time to review it. Therefore, I find that it was served per section 88 of the Act.

The Landlord confirmed receipt of the Tenant's evidence served and that they had enough time to review it.

Due to this confirmation, I find the Tenant's evidence sufficiently served under section 71 (2) of the Act.

Preliminary Issue

Request to Submit Additional Evidence

The Tenant requested for permission to submit additional evidence from a professional who inspected the rental unit for them. They stated they did not submit this evidence before the hearing, because the professional stated they did not want to be involved.

Under the *Residential Tenancy Branch Rules of Procedure* parties must submit evidence before the hearing. When deciding whether to allow late evidence, an arbitrator must apply Rule 3.17.

Rule 3.17 allows an arbitrator to decide if evidence submitted after the deadline should be considered if either:

1. The evidence is new and relevant and was not available before the relevant deadline had passed, or
2. If it does not unreasonably prejudice one party or result in a breach of procedural fairness.

Even if Rule 3.17 allows late evidence, the arbitrator decides whether to accept it. In making a discretionary (not determined purely by rules) decision an arbitrator must consider if accepting the evidence helps make the process fair, efficient, and consistent, as stated in Rule 1.1. Similarly, an arbitrator under Rule 3.17 may also allow evidence that does not meet this test if it does not result in a breach of the principles of procedural fairness.

In this case, I find it would not be appropriate to allow the extra evidence.

First, the evidence is not new and was available before the hearing. I base this on the Tenant's own testimony

I also find that I should not use my discretionary authority to allow this extra evidence. It would not be efficient to delay hearings every time someone wants to add more evidence. It is also fair to expect parties to submit all evidence they want considered before the hearing.

Issues to be Decided

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

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

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested? If not, should the damage deposit be returned?

Is the Landlord or Tenant entitled to recover the filing fee for their application?

Background and Evidence

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

Both parties agree on the following facts:

- The parties agreed that the tenancy was a fixed-term agreement. The Tenant confirmed this when asked directly during the hearing.
- The parties agreed that rent was \$2,400.00 per month. The parties also agreed that rent was due on the first day of each month.
- The parties agreed that the Tenant paid a security deposit of \$1,200.00. The parties also agreed that the Tenant paid a pet damage deposit of \$250.00.
- The parties agreed that a move-in condition inspection occurred at the start of the tenancy. The Tenant agreed that the inspection took place, although the Tenant stated they did not receive a copy within 15 days.
- The parties agreed that a move-out condition inspection occurred on November 4, 2025. The parties agreed that both parties attended the inspection and signed the condition inspection report.
- The parties agreed that the Landlord still retained the security deposit and the pet damage deposit at the time of the hearing.
- The parties agreed that the Tenant received the Landlord's proceeding package. The Tenant confirmed receipt during the hearing.
- The parties agreed that there was no claim for damage caused by a pet. The Landlord confirmed that the claim did not involve pet-related damage.

The Landlord is seeking compensation for the Tenant breaking their fixed term agreement

The Landlord gave the following testimony:

- The Landlord stated that the Tenant admitted in writing on September 2, 2025, that the air-conditioning unit may have caused the moisture. The Landlord stated that the Tenant voluntarily purchased a dehumidifier at that time. The Landlord stated that they nevertheless took additional steps beyond their obligations.
- The Landlord stated that they retained a professional contractor to inspect the rental unit on September 17, 2025. The Landlord stated that the contractor found no structural mold, no water ingress, no plumbing issues, and no abnormal humidity in adjacent rooms. The Landlord stated that the contractor concluded there was no building defect.
- The Landlord stated that, despite the contractor's findings, they installed a commercial-grade dehumidifier. The Landlord stated that humidity levels dropped to normal levels within approximately 45 minutes. The Landlord stated that this supported their view that there was no structural moisture issue.
- The Landlord stated that the Tenant never provided a professional mold report or evidence of toxic mold. The Landlord stated that photos provided by the Tenant showed mold only on personal belongings, such as clothing and furniture, and not on walls, floors, or structural elements. The Landlord stated that no mold source within the building was ever identified.
- The Landlord stated that the Tenant remained in the rental unit for approximately two months after raising mold concerns. The Landlord stated that during this time the Tenant did not apply to the Residential Tenancy Branch for an order ending the tenancy for cause. The Landlord stated that the Tenant continued to occupy the unit after the Landlord addressed the reported concerns.
- The Landlord stated that the Tenant gave notice on September 30, 2025, to end the tenancy effective October 31, 2025. The Landlord stated that the tenancy was a fixed-term tenancy and that the Tenant ended it early without an order permitting early termination.
- The Landlord stated that a move-out condition inspection occurred on November 4, 2025. The Landlord stated that both parties attended and signed the condition inspection report. The Landlord stated that the report showed the rental unit was in the same condition as at move-in, with no damage noted.
- The Landlord stated that they were not claiming for pet-related damage. The Landlord stated that the claim was for one month of rent and unpaid utilities due to the Tenant ending the fixed-term tenancy early.
- The Landlord stated that they took steps to mitigate their loss after the tenancy ended. The Landlord stated that they advertised the rental unit beginning in October 2025 and continued advertising through February 2026. The Landlord stated that several showings occurred but no tenancy was secured, which they attributed to the time of year.
- The Landlord stated that utility bills were issued on a delayed cycle. The Landlord stated that electricity was billed every 2 months and gas was billed monthly. The Landlord stated that they combined bills when received and then calculated the Tenant's share.
- The Landlord stated that the Tenant had unpaid utilities owing at the end of the tenancy. The Landlord stated that these utilities related to periods when the Tenant was still living in the rental unit, not to any period after move-out.

The Tenant gave the following testimony:

- The Tenant stated that they spent approximately one week in September 2025 cleaning mold from their belongings and household items. The Tenant stated that, despite cleaning and turning off the portable air-conditioning unit, humidity levels remained high. The Tenant stated that they purchased a humidity gauge, which showed readings around 74% to 77%.
- The Tenant stated that the Landlord attributed the moisture to the Tenant's portable air-conditioning unit. The Tenant stated that the air-conditioning unit was turned off for approximately two months, but humidity and mold continued. The Tenant stated that new furniture brought into the unit did not develop mold, which they believed showed a problem within the rental unit.
- The Tenant stated that they made repeated requests for repairs in September 2025. The Tenant stated that they sent a written request under section 32 of the Act demanding that humidity be reduced below 50% and that the mold issue be professionally investigated by September 29, 2025. The Tenant stated that they advised the Landlord they would end the tenancy if the issue was not resolved.
- The Tenant stated that the Landlord provided a dehumidifier, which the Tenant described as inexpensive and ineffective. The Tenant stated that humidity levels remained high after the dehumidifier was installed and that mold continued to recur.
- The Tenant stated that a private home inspector attended the unit through a personal connection in September 2025. The Tenant stated that this person did not provide a written report and did not wish to be involved. The Tenant stated that the inspector used a moisture gauge and told them that moisture levels in the walls were high.
- The Tenant stated that the Landlord repeatedly suggested that the Tenant could leave if they were unhappy. The Tenant stated that they wanted the problem fixed and did not initially want to move. The Tenant stated that they eventually provided notice to end the tenancy because the mold and humidity issues were unresolved and affected habitability and quiet enjoyment.
- The Tenant stated that they cleaned the rental unit thoroughly before vacating. The Tenant stated that they signed the move-out condition inspection report because the unit was clean at that time. The Tenant stated that cleaning removed visible mold, but did not resolve the underlying moisture problem.
- The Tenant stated that mold was present on items such as the stove as late as October 31, 2025. The Tenant stated that they believed mold would have continued to reappear had they remained in the unit.
- The Tenant stated that the Landlord failed to properly investigate the cause of the moisture and relied on a contractor who was personally known to the Landlord. The Tenant stated that no invasive testing or drainage investigation was conducted.

Both parties agree provided a copy of the tenancy agreement signed by both parties. The agreement states it is for a fixed term ending on May 31, 2026. Term 10 of the agreement deals with repairs.

The Landlord provided a contractor's report from a September 17, 2025 inspection. The report found no signs of water coming in from outside or problems with the drainage system. Inside, there was no evidence of water damage, broken pipes, or mold. The humidity in the unit was measured at 60%. The contractor recommended using a dehumidifier or increasing ventilation to lower the humidity.

The Landlord included pictures of a dehumidifier, and a humidity tracker.

The Landlord provided a hydro bill showing there was \$278.96, owed by the end of October 2025 (I note the exact date in the copy provided is blurry). They also provided a fortis bill showing that \$16.31 was owed for October 1, 2025. Finally they provided a fortis bill showing that \$40.11 was owed for October 30, 2025.

The Tenant included pictures of their property with what they claim is mold on them.

The Tenant included messages between themselves and the Landlord.

Residential Tenancy Branch records show the Landlord made their application on November 10, 2025, and that the Tenant made theirs on January 21, 2026.

Analysis

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

Rent

The Landlord says the Tenant broke the fixed-term tenancy agreement, which is not allowed under the Act.

The Tenant says they ended the tenancy agreement lawfully because the Landlord did not fix a serious problem (mold). They say section 45(3) of the Act lets them end the agreement if the Landlord breaks a material (important) term.

Term 10 of the tenancy agreement says the Landlord must keep the property in a state that is suitable for living. It also says the Tenant is responsible for any damage caused by their actions or neglect. If the mold was the Landlord's responsibility and they did not fix it, they would have broken term 10.

Did the Landlord fail to comply with term 10

The Tenants argue there was a mold problem in the rental unit that the Landlord did not fix properly. They believe hiring a contractor and installing a dehumidifier was not enough. The Tenants asked the Landlord to fix the issue by September 29, 2025, but say the Landlord did not do so.

The Landlord argues the mold and humidity were caused by the Tenants' air conditioner or furniture. Their contractor found no moisture coming from outside or inside the building. The Landlord says they took reasonable steps to investigate but they are not responsible for the Tenant's actions.

I find the Tenant has the evidentiary burden to prove the Landlord failed to fix the mold, because the Tenant claims the Landlord broke the tenancy agreement.

I find the Tenant did not prove, on a balance of probabilities, that the repair was the Landlord's responsibility. The Landlord gave a third-party report that strongly suggests the mold was not caused by the building or its environment. This supports the claim that the problem was likely caused by the Tenant. The Tenant's argument relies mostly on their own statements. I find that is not enough to show the mold was likely the Landlord's responsibility.

Because there was no material breach, I find the Tenant did not have the right to end the fixed-term agreement. So, I find the Landlord has shown that the Tenant broke the tenancy agreement by ending it early.

Loss, Value, and Mitigation

Because the Tenant broke the fixed-term agreement, I find the Landlord should be paid for the rent they lost. Both sides agree the rent was \$2,400.00 per month. I find the Landlord was not able to find a new Tenant for November 2025 based on the Landlord's uncontradicted testimony. I also find the Landlord acted reasonably to reduce their loss based on their uncontradicted testimony. Therefore, I find the Landlord has proven that they are owed \$2,400.00 under section 7 of the Act.

Utilities

I find based on the Landlord's uncontradicted testimony that the Tenants did not pay their share of the utilities bill before they left. Based on the tenancy agreement, I find the Tenants were responsible for 45% of the utilities. Based on the utilities bills I find there was \$333.38 (\$276.96+\$16.31+\$40.11) owing by the end of the tenancy. Therefore, I find the Tenant owes \$150.02 (45% of \$333.38) in utilities. As the Landlord only claimed \$150.00, I find that is all I can award them.

Therefore, I grant the Landlord's application for a Monetary Order for \$2,550.00 using my authority under section 67 of the Act.

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

I have already gone over the test for compensation for a breach of the Act in the previous section.

In the previous section, I found that the Tenant did not prove the Landlord was responsible for fixing the mold. The Tenant claimed there were two breaches of the tenancy agreement and the Act: 1. The Landlord did not fix the mold as required by term 10 of the agreement. 2. The Landlord did not protect the Tenant's right to quiet enjoyment under section 28, because they did not fix the mold.

Because I found the Landlord was not responsible for the mold, I find the Tenant has not proven there was a breach of the Act or the tenancy agreement.

I dismiss the Tenant's claim for monetary compensation without leave to reapply.

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested? If not, should the damage deposit be returned?

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 to the tenant or make an application for dispute resolution to claim against it. As the tenancy ended on October 30, 2025, and the Landlord made their application on November 10, 2025, I find that the Landlord made their application within 15 days of the forwarding address being provided.

Because the Landlord's claim is not for damage under section 38(5), the rules about condition inspections do not apply. Since the Landlord made their application on time, I find the security deposit should not be doubled.

The Landlord kept both the security deposit and the pet damage deposit.

I find there was a \$1,450.00 damage deposit, and that the tenancy began on May 5, 2025, as these facts are not in dispute. An additional \$7.17 in interest would have accrued according to the formula in section 4 of the *Residential Tenancy Act Regulation*, B.C. Reg. 477/2003.

Under the Act, pet damage deposits are treated differently than security deposits for the purpose of doubling. Section 38(7) states:

"(7) If a landlord is entitled to retain an amount under subsection (3) or (4), a pet damage deposit may be used only for damage caused by a pet to the residential property, unless the tenant agrees otherwise."[emphasis my own]

I find given this sub section a Landlord may only keep a pet damage deposit if they are claiming the Tenant owed them compensation for damage a pet caused. I find this is further supported by the following quote from Residential Tenancy Policy Guideline 31:

“The landlord may apply to an arbitrator to keep all or a portion of the deposit but only to pay for damage caused by a pet.” [emphasis my own]

Both sides agree the Landlord’s claim was not about damage caused by a pet. I find this means the Landlord had to return the pet deposit within 15 days of getting the Tenant’s forwarding address. I find the Landlord got the address by November 12, 2025, based on their own testimony. The Landlord did not return the pet deposit or apply for pet damage. Because of this, I find the pet deposit is doubled, due to section 38.1, adding \$250.00 to the deposit. No extra interest is added to this doubled amount, as explained in Residential Tenancy Policy Guideline 31.

Therefore, I find the total damage deposit is \$1,707.17. Per my authority under section 72 I will offset this amount against the Landlord’s award.

Damage Deposit	\$ 1,200.00
Pet Deposit	\$ 250.00
Interest	\$ 7.17
Doubled amount	\$ 250.00
Total	\$ 1,707.17

Is the Landlord or Tenant entitled to recover the filing fee for their application?

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

As the Tenant was the Tenant’s application was partially successful, I find the Tenant is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$842.83** 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?	\$ 2,550.00
Deposit	-\$ 1,707.17
Landlord Filing Fee	\$ 100.00
Tenant Filing Fee	-\$ 100.00
Total	\$ 842.83

The Landlord is provided with this Order in the above terms and the Tenant(s) must be served with **this Order** as soon as possible. Should the Tenant(s) 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: February 13, 2026

Residential Tenancy Branch