

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 unpaid rent under section 67 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
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

This hearing also dealt with an application by the Tenant under the Act for the following:

- an Order for the Landlord to return the security deposit, under section 38 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord testified that he served his Proceeding Package to the Tenant via email on November 19, 2025. The Tenant confirmed that he received the Landlord's Proceeding Package on that date.

The Tenant testified that he served his Proceeding Package to the Landlord via email on November 19, 2025, after obtaining a Substituted Service order from the Residential Tenancy Branch (RTB). The Landlord confirmed that he received the Tenant's Proceeding Package on that date.

I find that both parties' Proceeding Packages were sufficiently served under Section 72 of the Act.

Service of Evidence

The Landlord testified that he served his evidence in three emails, one November 19 2025, included with the Proceeding Package, the second on January 31, 2026, and the third on February 2, 2026. The Tenant confirmed that he received the Landlord's evidence on those dates.

The Tenant testified that he served his evidence to the Landlord by email on November 19, 2025, and provided the Landlord with his Substituted Service order on December 3, 2025. The Landlord confirmed that he received the evidence and order on those dates.

I find that both parties evidence was sufficiently served under Section 72 of the Act.

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.

Testimony was provided that this tenancy began on May 1, 2025, with a monthly rent of \$900.00, due on the first day of the month, with a security deposit of \$450 that is still held by the Landlord. The testimony of both parties agreed that there was no written tenancy agreement. The Tenant testified that the terms of the agreement were established by text messages between the parties leading up to the start of the tenancy. The Landlord testified that the parties had also had a verbal discussion about the terms of the tenancy prior to the tenancy beginning. The testimony of both parties agreed that the tenancy had ended on October 31, 2025.

The Landlord testified that he is seeking unpaid utilities, hydro, from during the tenancy. The Landlord's testimony regarding the months that utilities were owing for was initially varied between two and four months. The Landlord stated that his hydro is billed every two months and he had to break down daily charges in order to determine the amounts owing. The Landlord stated that the breakdown of amounts and months is in his submitted evidence, but he was unsure about the math and didn't have his notes with him so couldn't direct me to specifics or explain them. The Landlord's testimony regarding months owed and amounts settled to spanning from August 6 until the end of the tenancy, amounting to a total owing of \$143.01.

The Landlord testified that utilities were the responsibility of tenants, and that each tenant was responsible for one third of the billed amount. The Landlord testified that the Tenant had previously paid utilities, and thus was aware that utilities were part of the tenancy.

The Tenant testified that utilities were not included in the previous discussions the parties had regarding the tenancy, and submitted into evidence a log of text communication between the parties as evidence that utilities had not been discussed. He testified that he had paid utilities once, in July 2025, when he received a demand for \$57.00 from the Landlord. He testified that he paid at the time because he was afraid of losing his housing and was unsure if utilities were part of the tenancy agreement he had not received. He stated he spoke to the other Tenants and they received the same request from the Landlord but had not been previously aware that utilities were part of the tenancy.

The Tenant testified that he had no further demands for utilities from the Landlord until he moved out, at which time the Landlord told him about the charges in this hearing and withheld his security deposit.

The Tenant testified that he had not received a written tenancy agreement from the Landlord. He said the Landlord had told him to get a copy of another tenant's tenancy agreement and fill it in, that other tenant had refused as it contained his personal information and he wasn't comfortable providing that to the Tenant. The Landlord confirmed that he had not provided a tenancy agreement to the Tenant and had asked the Tenant to obtain a copy from another tenant. The Tenant testified that he had tried to get a written tenancy agreement from the Landlord as his disability payments require accurate documentation of expenses. The Tenant stated that he had downloaded the RTB general tenancy agreement form, filled that in, and sent it to the Landlord for signatures.

The Landlord testified that the Tenant had written his own month-to-month tenancy agreement with various terms filled in that were unacceptable, but that his device had been unable to open the document. He clarified that he was unwilling to sign a month to month tenancy agreement because he intended to move back into one of the three bedrooms in the unit at some point. The Landlord testified that after the Tenant had sent him the tenancy agreement, the Tenant made no further efforts to obtain a tenancy agreement between the parties.

The Tenant's submitted log of texts between the parties supports that the Landlord did not provide him with a tenancy agreement and in fact suggested that the Tenant fill in a generic one for the Landlord to sign if the Tenant needed written documentation of the tenancy.

The Landlord testified that the other two tenants of the unit had happily paid utilities and had no issue making payments, and that the Tenant should have been aware of and accountable to the utility bill.

Regarding his own claim for return of the security deposit, the Tenant testified that he had provided his forwarding address to the Landlord on September 28, 2025, and that the tenancy ended on October 31, 2025, and presented evidence in support of those dates. The Tenant testified that the Landlord was retaining the whole deposit and not just the amount the Landlord had claimed was owed. The Tenant testified that the Landlord initially wanted to deduct the utility amount from the deposit, and when the Tenant had argued with this, the Landlord had stated the Tenant that he would retain the whole deposit until the Tenant made payment on the utilities separately. The Tenant submitted screenshots of emails between the parties supporting this.

The Landlord testified that he was allowed to retain the deposit as security to collect the money owed for the utilities.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent or utilities?

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested?

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

Is the Tenant entitled to a Monetary Order for the return of their security deposit?

Analysis

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 a Monetary Order for unpaid rent or utilities?

In a claim for compensation for damage or loss under Section 67 of the Act, there needs to be a clearly established responsibility for the costs incurred between the parties to support a claim. In this matter, there needs to be clear evidentiary support for the Landlord's claim that the Tenant was responsible for utilities before the Tenant can be held responsible for repaying the Landlord for the cost of utilities.

Section 67 of the Act allows the director to determine damages resulting from a tenancy and order payment. I find that the Landlord's submissions do not satisfy the standards set forth to award the requested funds under those grounds. Policy Guideline 16, section C, sets forth a four part test:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

I find the Landlord has failed to sufficiently demonstrate that the Tenant has failed to comply with the Act or the tenancy agreement.

Taking into account the submitted evidence and testimony of both parties, I find on the balance of probabilities that the Landlord has failed to demonstrate that utilities were part of the tenancy agreement between these parties.

I find that the Tenant's one-time payment of utilities does not constitute proof of that term being in the tenancy agreement, or a form of implied agreement to that term or its addition to the tenancy agreement as previously determined between the parties.

While a tenant can be deemed to accept a rent increase or utility charge by paying it consistently for a period of time without dispute, I find that a single payment does not constitute such an implied agreement. I accept the Tenant's testimony that he paid that amount that one time because he was unaware if it was part of the agreement.

I find the Landlord did not sufficiently prove the amount or value of the loss. The Landlord provided conflicting and unclear testimony regarding the amounts owing and times that the funds were owed from, and non-specifically directed me to his evidence as proof of the loss and amounts. The Landlord's evidence was not as self-explanatory as indicated and did not demonstrate the amount owing, while other evidence submitted to demonstrate the Landlord's loss show debts to Hydro in excess of the amount claimed against this Tenant.

I find that the Landlord did not act reasonably to minimize the damage or loss. The lack of a written tenancy agreement including utilities noted as payable by the Tenant is the Landlord's responsibility.

The testimony of both parties established the Landlord's unwillingness to provide a tenancy agreement to the Tenant, or to fill a standardized one out with the Tenant. A tenancy agreement that clearly noted utilities were the responsibility of the Tenant would be a basic minimum reasonable step to mitigate the Landlord's potential losses resulting from the Tenant not paying the utilities voluntarily.

I find that it was not the Tenant's responsibility to obtain a tenancy agreement from the Landlord, and if the Landlord wanted to hold the Tenant accountable for charges during the tenancy that must be represented in a written tenancy agreement, it was the Landlord's responsibility to follow through and provide the Tenant with a tenancy agreement containing those terms.

I do not grant a Monetary Order for the utilities claimed by the Landlord. I dismiss the Landlord's claim for unpaid utilities 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?

As the Landlord has failed to demonstrate that any money is owing from the Tenant regarding the utilities, I do not grant the Landlord any entitlement to retain the Tenant's security deposit. I dismiss the Landlord's claim against the security deposit without leave to reapply.

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

As the Landlord was unsuccessful in his claim, I do not grant the Landlord the right to recover the filing fee. I dismiss the Landlord's claim for the filing fee without leave to reapply.

Is the Tenant entitled to a Monetary Order for the return of their security deposit?

Section 38 of the Act states that a Landlord must, within fifteen days of the end of the tenancy or receipt of a tenant's forwarding address, return the tenant's held deposits to them or make a claim for dispute resolution against them.

I find that the Tenant provided the Landlord with his forwarding address on September 28, 2025, and that the tenancy ended on October 31, 2025. I find that the Landlord had until November 15, 2025 to return the Tenant's security deposit or make a claim against it. I find that the Landlord's claim in this hearing was submitted November 14, 2025.

The Tenant testified that the Landlord had retained his entire security deposit on the grounds that the Tenant owed him for the utilities claimed in this hearing and was refusing to return it until the Tenant paid him the amount owing for utilities. The Tenant had testified that the Landlord was "holding hostage" his deposit in order to compel an additional payment from him, for a debt that he disputes and I have previously found is not valid.

I find that the Landlord made a claim for \$143.01 of the Tenant's deposit, and was unsuccessful. As such, I order the Landlord to return the Tenant's deposit of \$450.00. I order the Landlord to return the interest on the deposit held since May 1 2025, until the date of this hearing, totaling to \$2.87 by the RTB deposit interest calculator.

Conclusion

I dismiss the Landlord's claim for unpaid utilities, without leave to reapply.

I dismiss the Landlord's request to retain a portion of the Tenant's security deposit, without leave to reapply.

I dismiss the Landlord's request to be reimbursed the filing fee by the Tenant, without leave to reapply.

I grant the Tenant a Monetary Order in the amount of **\$452.87** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for the return of the Tenant's deposit under section 38 of the Act	\$450.00
a Monetary Order for the return of interest owing on a \$450 deposit held from May 1 2025 to February 17 2026	\$2.87
Total Amount	\$452.87

The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims 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: February 18, 2026

Residential Tenancy Branch