



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

This hearing dealt with a Landlord and Tenant Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- Landlord monetary claim for unpaid rent or utilities
- Landlord monetary claim for compensation or other loss under the Act, Regulation or tenancy agreement and filing fee
- Tenant monetary claim for the return of their security deposit and filing fee

### **Preliminary Matter**

As one of the items was resolved by way of a settlement agreement under section 63 of the Act, the evidence regarding that item will not be discussed in detail below as only the terms of the settlement agreement are required.

### **Issue to be Decided**

- Has either party provided sufficient evidence to support a monetary claim?
- What should happen to the security deposit?
- If yes, is either party entitled to their filing fee?

### **Facts and Analysis**

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, which is more likely than not, I find the following.

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on July 7, 2023, and was scheduled to be converted to a month-to-month tenancy after January 13, 2024. The parties agreed that the Tenant returned the rental unit keys on December 11, 2023.

Monthly rent was \$3,200.00 per month and due on the sixth day of each month. The Tenant paid a security deposit of \$1,600.00, which the Landlord continues to hold.

The Landlord's monetary claim is for \$516.13 for prorated rent for overholding the rental unit, plus \$654.69 for unpaid utilities.

The Tenant's monetary claim is seeking the return of their \$1,600.00 security deposit. I will calculate interest due in accordance with the Act later in this decision.

The parties reached a settlement agreement in the amount of \$654.69 for unpaid utilities. The Tenant agreed to pay that amount to the Landlord, which will be accounted for below. Under sections 62(3) and 63 of the Act, I order the parties to comply with their settlement agreement. The parties confirmed that they were not being pressured in any way and understood the binding nature of their settlement agreement.

For the \$516.13 in overholding for 5 days between December 6, 2023, and December 11, 2023, the Landlord is seeking the daily rate of rent. The Landlord has used the \$3,200.00 rent and divided by 31 days for December, \$103.23, then multiplied by 5 days, which I find totals \$516.15, a difference of 2 cents.

Section 37(2)(b) requires a Tenant to return all the keys to the Landlord at the end of the tenancy, and therefore, I find the Tenant owes \$516.15 for overholding until December 11, 2023. I find the Landlord has met the burden of proof as a result.

Regarding the security deposit, the Landlord continues to hold the \$1,600.00 security deposit, which I find has accrued \$35.40 in interest for a total with interest of \$1,635.40. The parties agreed that in February 2024, the Tenant sent their written forwarding address by registered mail to the Landlord. The tracking number is on the cover page of this decision and confirms that the Landlord did not sign for that package until March 2, 2024. As the Landlord applied against the Tenant's security deposit on March 10, 2024, I find the Landlord applied within 15 days as required by the Act.

I find the Landlord has proven a total monetary claim of \$1,170.84 comprised of \$654.69 for unpaid utilities by settlement, plus \$516.15 for overholding. In addition, I grant the Landlord the \$100.00 filing fee as the Landlord's claim was successful, under section 72 of the Act.

The total monetary claim for the Landlord is \$1,270.84. I offset from that amount the Tenant's security deposit with interest of \$1,635.40, leaving a balance owed by the Landlord to the Tenant in the amount of \$364.56. I decline to grant the filing fee to the

Tenant as I find their application was not necessary under the Act, as I would have returned the balance owed to the Tenant solely on the Landlord's application, which claimed against the security deposit within the 15-day timeline under section 38 of the Act.

## Conclusion

I grant the Tenant a monetary order for the security deposit balanced owed by the Landlord to the Tenant in the amount of **\$364.56** under sections 67 and 72 of the Act. As both parties confirmed their email addresses during the hearing, I authorized service by email under section 62(3) of the Act. The email address for the Landlord is included on the cover page of this decision for ease of reference.

The monetary order will be emailed to the Tenant only for service on the Landlord as required. The Tenant must issue a demand for payment letter when serving the Landlord with the monetary order and be able to prove service before the monetary order can be enforced in the Provincial Court of British Columbia (Small Claims Court).

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 19, 2024

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Residential Tenancy Branch