

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 damage to the rental unit or common areas under sections 32 and 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

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for the return of all or a portion of their security 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

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for 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 Landlord under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Tenant(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

Issues to be Decided

Is the Landlord entitled to a Monetary Order 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 Order requested under section 38 of the Act

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

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

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

Is the Tenant entitled to recover the filing fees for these applications from the Landlord?

Facts and Analysis

The Tenant provided a copy of the tenancy agreement that shows the tenancy started on July 1, 2023, with a \$750.00 security deposit. It further states the Tenant is responsible for paying for electricity.

Both parties agree that the Tenant vacated the rental unit on June 29 or 30 of 2024, and that the Landlord retained \$585.48 of the security deposit. Both parties agree that the remaining \$164.52 of the security deposit was returned to the Tenant, although the Tenant affirms losing the cheque.

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

Both the Landlord and Tenant provided a copy of the move in/move out Condition Inspection Report (CIR). The move in section and the move out section are both signed by the Tenant, and the boxes indicating the Tenant agrees that the condition of the rental unit is accurately represented are checked. However, the Tenant denies doing a proper move in walkthrough and affirms that when moving in she was just given the last sheet of the CIR to sign and was told it was in order to get her keys. The Landlord provided a copy of a letter, from and signed by the property manager, stating that he

reviewed the move in CIR with the Tenant after doing a full move in inspection with the Tenant.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find it most likely that a proper move in CIR was completed and that the Tenant signed it after reviewing it.

The Landlord provided a Monetary Order Worksheet and claims \$585.48 in repairs for patching and painting spots in walls where the paint was pulled off, replacement of two blinds (one in the kitchen and one in the master bedroom), and cleaning kitchen fan and light. He provided receipts supporting these claims. The Tenant admits to damaging the kitchen blind and, by removing adhesive hooks, causing the damage to the bedroom walls but denies causing the other wall damage and damaging the master bedroom blind.

The Landlord provided photographs of the damaged walls, as well as the broken blind in the kitchen. Although he did not provide photographs of the other broken blind or the dirty kitchen fan and light, all of the Landlord's claims are mentioned in the move out CIR which the Tenant signed and acknowledged is an accurate representation of the condition of the rental unit.

The Tenant affirms that the blind that she did break was broken while cleaning it, and that it was extremely brittle because of its age and exposure to the sun and variation in temperature. The Landlord affirms that the blinds were replaced in 2022, a year prior to the Tenant moving in.

I find that Landlord has provided sufficient evidence to establish his claim for \$585.48. Therefore, I find the landlord is entitled to a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act.

Is the Landlord entitled 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

As the CIR's were completed on move in and on move out, and the Landlord filed an application for dispute resolution within 15 days of the end of the tenancy, I find the Landlord is entitled to retain a portion of the Tenant's security deposit.

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

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.

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

As I find the Landlord is entitled to the portion of the security deposit he has retained and both parties agree that he returned the remaining portion, the Tenant is not entitled to a Monetary Order for the return of any portion of their security deposit. Although the Tenant claims to have lost the cheque the Landlord provided them for the return of the remaining \$164.52 of the security deposit, I find this to be the responsibility of the Tenant, not the Landlord. If the Tenant cannot find the cheque, she may contact the Landlord to resolve the issue, but I decline to award a monetary order for monies that have already been returned.

For the above reasons, the Tenant's application for a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act is dismissed without leave to reapply.

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

The Tenant claims they are entitled to \$859.65 in compensation from the Landlord to cover their reconciliation bill from BC Hydro. The Tenant claims the Landlord is responsible because the exterior door to the enclosed porch outside the Tenant's entrance did not close properly. In addition, the Tenant further claims she is entitled to this compensation because the windows in the rental unit are only single pane windows.

Both parties agree that the Tenant informed the Landlord about the door on August 8, 2023, 5 weeks, after the tenancy started, and that the Landlord fixed it on August 9, 2024.

I find the Landlord followed the Act when he repaired the door one day after the Tenant informed them of the issue. I further find that, although single pane windows are not the most thermally efficient, nothing in the Act, regulations or the tenancy agreement, requires the Landlord to have anything else. Furthermore, I find the Tenant bears the responsibility as she chose to move into a rental unit with single pane windows.

For the above reasons, I find that the Tenant has provided insufficient evidence to establish their claim and their application for a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act is dismissed without leave to reapply.

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

As the Tenant was not successful in their applications, the Tenant's application for authorization to recover the filing fee for these applications from the Landlord under section 72 of the Act is dismissed, without leave to reapply.

Conclusion

The Tenant's application is dismissed, in its entirety, without leave to reapply.

I grant the Landlord a Monetary Order in the amount of **\$685.48** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act	\$585.48
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
Total Amount	\$685.48

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 in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The Landlord may keep the already retained \$585.48 portion of the tenant's security deposit as partial satisfaction of the monetary order.

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: September 26, 2024

Residential Tenancy Branch