Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear linked applications.

The Landlord's March 13, 2025 Application for Dispute Resolution under the Act is for:

- A Monetary Order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67;
- An authorization to retain all or a portion of the security and pet damage deposits, under section 38;
- An authorization to recover the filing fee for this application, under section 72.

The Tenant's April 27, 2025 Application for Dispute Resolution under the Act is for:

- An Order for the Landlord to return double the security deposit, pursuant to section 38;
- An authorization to recover the filing fee for this application, under section 72.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord acknowledges service of the Proceeding Package and is duly served in accordance with the Act.

The Tenant acknowledges service of the Proceeding Package and is duly served in accordance with the Act.

Service of Evidence

Following the interim decision dated May 23, 2025, the Tenants were ordered to re-send their original evidence package to the Landlord by June 5, 2025. However, the evidence was sent late, on June 8, 2025. I took submissions from both sides for input on whether the evidence should be permitted. Despite arguments made by the Landlord for the evidence to be set aside, I will permit this evidence package even though it was slightly late. There was a significant length of time between the date that the evidence was received and the date of the reconvened hearing (July 10, 2025); the Landlord also agrees that they were able to review the evidence. I also note that, at the time, evidence deadlines for any *new* evidence were still open until June 26, 2025.

The Tenants also provided a separate evidence package to the Landlord on June 27, 2025. As discussed at the hearing, I am not accepting this evidence as it is too late.

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

Issues to be Decided

Is the Landlord entitled to compensation from the Tenant for loss under the Act, regulation, or tenancy agreement?

Is the Landlord entitled to retain any portion of the security deposit? Or should any portion of the security deposit be returned to the Tenant? Is the Tenant entitled to double the security deposit under section 38(6)(b) of the Act?

Is either party authorized to recover their filing fee from the other party?

Facts and Analysis

Although a significant amount of evidence and testimony was explored and considered, *I will only refer to what I found relevant* in my decision.

Both parties agree that this tenancy started on October 24, 2023, which is one day after the date listed on the tenancy agreement. The rent was $2,795.00 due on the first day of each month, and the Tenants paid a security deposit in the amount of $1,397.50 on

October 20, 2023, as well as a $1,397.50 pet damage deposit on the same day. Both parties agree that the tenancy ended on February 28, 2025.

Is the Landlord entitled to compensation from the Tenant for 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

The Landlord has claimed five separate sub-claims in their Monetary Order worksheet, each of which were discussed at the hearing. I have assessed them individually below:

Water utility bill - $158.39

Following discussions at the hearing, the Tenant did not dispute this amount and agreed to pay it, as it was the correct owing amount. The claim is granted in full.

Missing garage FOB - $75.00

The Landlord states that they received the garage FOB shortly before the first hearing and thus this claim is no longer required. It is dismissed without leave to reapply.

Fumigation of unit due to pet smell - $477.75

The Landlord states that, during the move-out condition inspection and days following the vacating of the rental unit, there was a strong smell of urine and wet dog in the rental unit. In addition to their testimony, the Landlord points to the move-out condition inspection, which contains some evidence of dog hair left behind after the Tenants left.

The Landlord states that, at first, they attempted to remediate the smell with basic cleaning services. However, some prospective tenants viewing the unit complained about the smell, and thus, they decided to procure their maintenance team for an ozone fumigating treatment which was utilized twice at $65.00 for labour and $290.00 for operation. The trip charge was $35.00, and when including tax, the total invoice was $477.75.

As discussed at the hearing, I observed that the invoice was printed on the Landlord's corporate letterhead. The Landlord's agent explained that this was the total costs that were billed to the owner of the rental unit, and states that the personnel were a 3rd party – however, the entity of the third-party is unknown and the Tenant states that their research showed that the company's tax registration is consistent with the corporate Landlord, which is a property management company.

Overall, for the purposes of proving loss under the Act, the value and mitigation of the loss could be affected by the person(s) or contractor(s) procured to carry out the work and their affiliations. When the Landlord, as a property manager, internally bills an owner, someone who is also technically affiliated with the company, it affects the real and/or perceived transparency of the true cost of any potential loss. This logic also comes into play in the cleaning claim later in this decision.

It is difficult to prove the existence of a smell in a teleconference-based hearing. However, I did find the Landlord's testimony and evidence convincing. The Tenants agreed that they had two dogs in the unit, and that there was some dog hairs left behind. Although the Landlord had not submitted quotes from other contractors, I found this invoice to be a reasonable cost for the work that was carried out. On the balance of probabilities, I conclude that the Landlord has met the burden of proof, and I grant the full claim.

Cleaning - $1,638.00

The Landlord presented a series of before and after photos taken by their cleaning crew, as well as some photos from the move-out condition inspection report. Observations from these photos include dirt, debris, and splattered foodstuffs on the sides of the oven, underneath the oven, and behind the fridge. The Landlord states that the oven was not on rollers, and that they were not aware of providing any special instructions for safely moving the oven without causing damage to the floors. As discussed at the hearing, if an oven or fridge does not have rollers, the Landlord must provide specific instructions on how the Tenant is to move the oven to clean around it; this is in accordance with Policy Guideline #1.

There was also dust and lint buildup in the dryer, as well as debris and some garbage beside the washer/dryer unit. Some portions of the oven were not sufficiently cleaned, such as the shelf. The Tenant agreed that some portions of the rental unit were not the

cleanest, however, the argued that the level of cleaning required is disproportionate to the amount being claimed.

The Landlord has provided an invoice on their own company letterhead of the amount charged to the owner of the rental unit. It lists 3 cleaners hired for 8 hours, for a total of 24 man-hours at a rate of $65.00 per hour. When including tax, this amounts to $1,638.00. The Landlord has not provided any quotes of competitors for price comparisons.

Overall, I agree that parts of the rental unit were not reasonably clean, however, I take issue with the value of the loss as claimed by the Landlord. This is a very expensive cleaning invoice, and I note that some parts of the rental unit were certainly cleaned by the Tenants. I agree that the cost claimed is disproportionate to the cleaning that would have been required, based on the evidence before me. I also find that the absence of any competitor quotes, combined with the high cost, result in a failure to establish the value of the loss because it is unclear what the market cost was to have this unit cleaned. Thus, I have decided to award only nominal damages in the sum of $409.50, which is 25% of the cleaning costs claimed by the Landlord.

General Contractor painting and patching - $2,512.75

The Landlord has presented an invoice, which is from a third-party general contractor. This invoice lists work carried out from March 3-14, 2025, and lists patching of holes, sanding and re-patching the laundry room door, re-painting walls, trims, baseboards and laundry room door – for a total of $1,950.00. The materials were $347.85, and tax was $114.90. The invoice indicates that the amount paid to be by March 31, 2025, is $2,412.75 while after March 2025 it would be $2,512.75.

The Landlord points to scuffs and marks to the walls throughout the unit in the move-out condition inspection report and compares it to the findings during the move-in condition inspection. The Landlord notes that the rental unit was a newly built unit when the Tenants moved in. The Landlord states that the Tenants' patching and paint jobs were poorly done; there were a few photos of a window covering that had some paint splashed on the edges. There was a chunk of a baseboard that was broken off.

The Tenants agree that there was some damage that they were responsible for, such as the chunk in the baseboard and an accident in the bathroom. However, they disagree with the amount of the claim and assert that most of the scuffs and marks are

due to wear and tear given the duration of their occupation in the rental unit from October 24, 2023, to February 28, 2025.

I have taken all observations, evidence, and testimony into consideration, and I conclude that there was indeed some loss that went beyond wear and tear. However, once again I find the value of the loss as claimed by the Landlord to be problematic. Given the high cost of the invoice, the lack of any competing quotes, the photographic evidence that does not indicate any major damage, as well as considerations for some wear and tear – overall I conclude that the Landlord shall only be awarded nominal damages in the sum of $829.21 which is 33% of their claim.

Is the Landlord entitled to retain any portion of the security deposit? Or should any portion of the security deposit be returned to the Tenant? Is the Tenant entitled to double the security deposit under section 38(6)(b) of the Act?

Section 38(1) of the Act indicates that, within 15 days after the later of (a) the date the tenancy ends, and (b) the date the landlord receives the tenant's forwarding address in writing, the landlord must (c) repay any security/pet damage deposits with interest in accordance with the regulations, or (d) make an application for dispute resolution claiming against the security/pet damage deposits.

Based on the testimony from the parties, the tenancy ended on February 28, 2025, and both parties agree that the forwarding address was provided on or before that date. The Landlord claimed against the security and pet damage deposits on March 13, 2025, which is within the required timeline.

The Tenants' counterclaim is for double the security and pet damage deposits. The Tenants argue that the Landlord did not comply with section 24 of the Act and did not provide them with a copy of the move-in condition inspection report.

This was contested by the Landlord's agent CR, who states that a colleague carried out the move-in condition inspection with the Tenants in attendance. Both parties agree that it occurred on October 24, 2023, however there was debate regarding the exact time that the inspection started, timestamps of the photos compared against the inspection time, the level of depth of the inspection, and the provision of a copy to the Tenants within 7 days as per Regulation 18(1)(a).

The Tenants argue that the inspection was more of a walk-through, with the agent having already taken the photos and promising the photos to be sent via email. Both parties agree that the Tenants provided their email address to the agent on that day. The Tenants state that they never received a copy of the move-in condition inspection report or the photos until after the tenancy had ended, but they agree that they never followed up with the Landlord after not receiving it as they were newcomers to the province and were unfamiliar with the Landlord's obligation to promptly provide a copy of the report. The Tenants also claim that they never recalled signing any report.

The Landlord argues that they complied with every requirement under the Act and Regulations. Specifically, they conducted a thorough inspection and also provided a copy via email. The Landlord states that they use a software-based application where, once an email address is input, the inspection report is automatically sent to the Tenants. The Landlord has submitted a letter from their agent who attended the inspection to support their assertions.

Overall, I find both sides' arguments to largely be based on hearsay. It is unclear when the move-in condition inspection commenced, or the degree of depth in the inspection that was undertaken, given the conflicting reports from both parties. If the Tenants did not receive the emailed report, it is possible that there was a data entry error regarding the email address.

In this case, I find it important to consider that there was no follow up by the Tenant. Although it was the Landlord's obligation to provide a copy of the report, in a world where errors may occur, I believe the Tenant bears some responsibility to follow up when an expectation is not being met. In this case, if the report was not promptly received, the Tenant ought to have been aware of their rights and notified the Landlord about the issue. My interpretation of the doubling provision relating to deposits is that the purpose is to deter bad-faith actions by the landlords, and in this case, I find there is insufficient evidence to conclude bad faith. I decline to double the deposit against the Landlord.

The Landlord still holds the $1,397.50 security deposit, as well as the $1,397.50 pet damage deposit which they collected on October 20, 2023. When including accrued interest, the total value of the security and pet damage deposits as of the date of this decision is $2,896.00. I authorize the Landlord to retain $1,974.85 in full satisfaction of their monetary awards (including the filing fee) and order the Landlord to return the remaining $921.15 to the Tenants.

Is either party authorized to recover their filing fee from the other party?

I award the Landlord with their filing fee to be recovered from the Tenants, and I have contemplated this in my analysis of the security deposit.

The Tenants' application for double the deposit has been dismissed, and thus, they are not entitled to recover their filing fee from the Landlord.

Conclusion

I grant the Tenants a Monetary Order in the amount of **$921.15** under the following terms:

Monetary Issue	**Granted Amount**
Security and pet damage deposits, including accrued interest	$2,896.00
Water utilities	-$158.39
Fumigation of unit	-$477.75
Cleaning	-$409.50
General Contractor painting and patching	-$829.21
Landlord's filing fee	-$100.00
Total Amount	**$921.15**

I grant a Monetary Order to the Tenants **in the amount of $921.15**. 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 Small Claims Court of British Columbia 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.

The Tenants' claim seeking double the security and pet damage deposits has been dismissed without leave to reapply.

This decision 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: July 10, 2025

Residential Tenancy Branch