



DECISION

Introduction

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

The Landlord's March 17, 2025 Application for Dispute Resolution under the Act is for:

- A Monetary Order for unpaid rent, pursuant to section 67;
- 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 deposit, under section 38;
- An authorization to recover the filing fee for this application, under section 72.

The Tenant's March 31, 2025 Application for Dispute Resolution under the Act is for:

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

YZ and ABM appeared for the Landlord.

JE appeared for the Tenants.

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

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. There is one exception: transcripts uploaded by the Tenant were not received by the Landlord within the required timeline. The Tenant agreed that these can be withdrawn from consideration.

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. The Landlord provided a link to a video that they could not upload due to file size. Despite repeated attempts, I was unable to access the links and could not view the video.

Issues to be Decided

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

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

Is the Landlord authorized to retain all or a portion of the security deposit? Or is the Tenant entitled to the return of their full deposit that the Landlord is retaining without cause?

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

Facts and Analysis

Both parties agree that this tenancy started on March 10, 2022, with a monthly rent of \$3,400.00 due on the first day of each month, and a security deposit in the sum of \$1,700.00 paid on February 11, 2022. This is despite the fact that the tenancy agreement indicates that the deposit was \$1,650.00; both parties agree this was likely a typo. The most recent rate of rent was \$3,520.00.

Both parties agree that a move-in condition inspection was conducted, with both parties participating, on March 9, 2022. Neither party raised any issues relating to the move-in condition inspection process.

Both parties agree that, on January 31, 2025, the Tenant emailed the Landlord advising them that they could no longer financially afford the rent due to personal circumstances, and that they had already moved out. The Landlord replied to the email on the same day and invited the Tenant to reach out to discuss the next steps.

The parties disagree on when the tenancy can be considered to have ended, and by extension, if there is any rent owing for February 2025. Furthermore, the Landlord seeks costs relating to damages and cleaning of the rental unit, while the Tenant argues that the Landlord did not afford them with a fair opportunity to repair and clean the unit because he was rushed to return the keys.

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

Section 45(1) of the Act indicates that a tenant may end a periodic tenancy by giving the landlord a notice to end tenancy effective on a date that is (a) not earlier than one

month after the date the landlord receives the notice and (b) is the day before rent is payable under the tenancy agreement.

When considering section 45 of the Act, the earliest effective date of the Tenant's January 31, 2025, notice to end tenancy was February 28, 2025. The Landlord states that the Tenant did not provide sufficient notice of ending the tenancy, and thus, they seek February 2025 rent.

However the matter is complicated by arguments made during the hearing by the Tenant, who states that the Landlord requested the keys from him on January 31, 2025, and thus implied that he had accepted the tenancy was over on the same day. The Tenant states that, if the Landlord was going to be seeking February 2025 rent, the Tenant should have been entitled to continued occupation and access to the rental until the end of February.

The Landlord makes some counter arguments. Firstly, the Landlord states that the Tenant still had other keys to the rental unit that were not returned on January 31, 2025. The Landlord also asserts that they did not request the keys for the purpose of ending access, but only so that he could inspect the house. The Landlord states that they needed access to the unit so that they could immediately attempt to re-rent it, to mitigate their loss. The Landlord believes that the rental unit should be deemed abandoned by the Tenant because they had already moved out, leaving behind only discarded items. The Landlord states that there was no reasonable expectation for the Tenant to return to the rental unit.

Regulation 30.3 discusses abandonment of personal property. The portions relevant to this dispute state:

30.3 (1) *A landlord may consider that a tenant has abandoned personal property if*

(a) the tenant leaves the personal property on residential property that the tenant has vacated after the tenancy agreement has ended, or

(b) subject to subsection (2), the tenant leaves the personal property on residential property

(i) that, for a continuous period of one month, the tenant has not ordinarily occupied and for which the tenant has not paid rent, or

(ii) from which the tenant has removed substantially all of the tenant's personal property.

(2) The landlord is entitled to consider the circumstances described in subsection (1) (b) as abandonment only if

(a) the landlord receives an express oral or written notice of the tenant's intention not to return to the residential property, or

(b) the circumstances surrounding the giving up of the rental unit are such that the tenant could not reasonably be expected to return to the residential property.

As per the Regulation, the Tenant is not considered to have abandoned the property on January 31, 2025. January 2025 rent was paid, and the Tenant had been occupying the rental unit during the month of January 2025. Furthermore, the Tenant's January 31, 2025, notice to end tenancy email stated that "I still need to arrange for a cleaner to do a full top-to-bottom clean, and I have multiple keys to return. Please let me know how you'd like to proceed." Thus, the Tenant had indicated that they, or their cleaners, intended to return to the property.

However, the lack of abandonment at that time does not mean that the Landlord is not entitled to February 2025 rent. In fact, if the Tenant intended to continue to have access for cleaning into the month of February, it is natural that they ought to have expected that February 2025 rent would be due. Any attempt to end the tenancy sooner than February 28, 2025, infringes on the Landlord's right to receive adequate notice for ending the tenancy. There was no written mutual agreement to clearly end the tenancy on any other date to prove otherwise.

It may have been a misunderstanding or miscommunication between the parties, but I also find that the return of a single set of keys did not reasonably mean that the Tenant no longer had access to the unit, because the Tenant mentions possession of multiple keys in their email and because not all keys were returned to the Landlord as confirmed by both parties at the hearing.

The Landlord states that they secured a new tenancy by March 1, 2025. The Tenant states that they observed new tenants in February 2025, but the Landlord responds by asserting that they allowed the new tenants to move in early and there was no rental income received for February 2025. On the balance of probabilities, I found the Landlord's version of events convincing.

In conclusion I find that the Tenant owes February 2025 rent in the sum of \$3,520.00, and I award this amount to the Landlord.

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

Section 37(2)(a) of the Act indicates that, when a tenant vacates a rental unit, the Tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

- That the other party violated the Act, regulations, or tenancy agreement;
- That the violation caused the party making the application to incur damages or loss as a result of the violation;
- The value of the loss; and,
- That the party making the application did whatever was reasonable to minimize the damage or loss

The Landlord has provided a Monetary Order Worksheet to list their claims. I have assessed each independently below.

Door seals repair - \$25.00

The Landlord states that the Tenant's pets damaged the door seals, which had to be replaced. The Landlord provided a receipt showing that the costs slightly exceeded what is being claimed. The Tenant did not dispute this claim. I award the Landlord \$25.00 for this loss.

House deep cleaning - \$360.00

The Landlord states that the Tenant did not leave the rental unit reasonably clean at the end of the tenancy, and that they had to procure cleaning services. The Landlord provided an e-transfer screenshot showing that they paid \$360.00 for some private cleaners. The Tenant does not dispute this claim. I award the Landlord \$360.00 for this loss.

House painting - \$1,600.00

The Landlord states that the interior paint is 4 years old, however, they had to repaint most of the rental unit because of damage that went beyond regular wear and tear. The Landlord provided an e-transfer screenshot showing that they paid private painters \$1,600.00.

The parties had a consensus on a 10x10 section in the kitchen that was painted a different colour without the consent of the Landlord. The Tenant also acknowledges an LED strip that, once removed, ripped off some paint because of the intensity of the glue. The Tenant also acknowledges a hole in the garage wall due to negligence, but otherwise, argues that the walls had poor craftsmanship which made them easier to dent and accelerated wear and tear damage.

The Landlord could not submit any viewable evidence to demonstrate that there was any damage exceeding regular wear and tear, which has adversely affected their ability to prove their loss. However, the Tenant has acknowledged some damage, and I found

the Landlord's testimony to be convincing. I am taking into account the age of the pre-existing paint, because I also find that wear and tear must be considered. *Policy Guideline #40 – Useful Life of Building Elements* indicates that the useful life of interior paint is 6 years.

Considering all the above, I conclude that the Landlord has established nominal damages in the sum of \$533.33 which is 1/3 of their claim; this captures the wear and tear loss of value depreciation that the pre-existing paint job would endure over 4 years.

Shower diverter - \$30.00

The Landlord states that a dysfunctional shower diverter was left behind by the Tenant, where the original shower head used to be. The Landlord has provided a receipt which shows that they are seeking about half of the cost of purchasing the new shower diverter.

The Tenant responds by stating that they removed the old shower head and installed their own diverter during the tenancy. The Tenant states that they left the old shower head in the master bedroom closet after they vacated the unit. The Landlord responds by stating that they did not find the shower head and denies that it was left behind by the Tenant.

I am awarding the Landlord their \$30.00 claim because the Tenant ought to have reinstalled the Landlord's shower head before vacating the rental unit. By failing to do so, the Tenant can be held accountable for the requirement to replace it because it was not found by the Landlord. I conclude that \$30.00, roughly half the cost of the new diverter, is fair because the previous shower head did not have a diverter function and was simpler.

Light bulbs - \$15.00

The Landlord claims that there were some lights burnt out after the Tenant vacated. The Landlord has provided a receipt, showing that they are seeking less than half of the cost of a 4-pack of lightbulbs. The Tenant does not dispute this claim and accepts that there were some burnt out light bulbs. I award the Landlord \$15.00 for this loss.

Cleaning products - \$70.00

Due to a lack of receipts or evidence, the Landlord waived this claim. It is dismissed without leave to reapply.

Time and money lost relating to repairs - \$500.00

The Landlord states that they lost workdays, had to arrange cleaners, and had to carry out a lot of driving back and forth to the rental unit to deal with losses incurred because of the Tenant. The Landlord has not provided any tangible evidence to substantiate the

value of their loss, or how they calculated it. Furthermore, a lot of their argued losses are sunken costs that come with the duty of being a Landlord managing a rental unit. The Landlord has not met the burden of proof, and this claim is dismissed without leave to reapply.

Overall awards

Based on all assessments in this section, the Landlord has established \$963.33 in loss owing from the Tenant under section 67 of the Act.

Is the Landlord authorized to retain all or a portion of the security deposit? Or is the Tenant entitled to the return of their full deposit that the Landlord is retaining without cause?

A landlord always retains the right to claim against the security deposit for unpaid rent, even if they had extinguished their right to claim against the deposit for damages to the rental unit. Although a moot point, I note that the Landlord may have failed to carry out their obligations with respect to the move-out condition inspection. I will not engage in a full analysis of this topic because it is a moot point, but I mention it because it was discussed at length during the proceedings.

Overall, I conclude that the Landlord made a legitimate and lawful claim against the deposit for unpaid rent on March 17, 2025. They did this within 15 days of receiving the forwarding address, which both parties agreed on March 4, 2025. Thus, there will be no doubling of the security deposit against the Landlord.

I authorize the Landlord to retain the full security deposit, including all accrued interest, in the sum of \$1,789.51 in partial satisfaction of the total monetary awards.

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

The Landlord was partially successful in their application. The Tenant's application was unsuccessful, as the Landlord was not retaining their security deposit without cause. Thus, the Landlord is entitled to recover their filing fee from the Tenant, while the Tenant's application to recover the filing fee from the Landlord is dismissed without leave to reapply.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$2,793.82** under the following terms:

Monetary Issue	Granted Amount
February 2025 rent	\$3,520.00

Door seals repair	\$25.00
House deep cleaning	\$360.00
House painting	\$533.33
Shower diverter	\$30.00
Light bulbs	\$15.00
Landlord's filing fee	\$100.00
Security deposit, including interest	-\$1,789.51
Total Amount	\$2,793.82

I grant a Monetary Order to the Landlord **in the amount of \$2,793.82**. The Tenants must be served with this Order as soon as possible. Should the Tenants 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.

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: July 24, 2025

Residential Tenancy Branch