



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Municipal Affairs

## **DECISION**

**Dispute Codes**    Landlord: **MNRL-S, LRSD, FFL**  
                         Tenant:   **MNSDB-DR, FFT**

### **Introduction**

This hearing dealt with the Landlord's Application under the *Residential Tenancy Act* (Act) for:

1. A Monetary Order to recover money for unpaid rent – holding security and pet damage deposits under sections 26, 38, 46, and 67 of the Act; and,
2. Recovery of the application filing fee under section 72 of the Act.

This hearing also dealt with the Tenant's cross Application under the Act for:

1. An Order for the return of part or all of the security deposit and pet damage deposit under section 38 of the Act; and,
2. Recovery of the application filing fee under section 72 of the Act.

Landlord JA attended the hearing for the Landlord.

Tenant AMO attended the hearing for the Tenant.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

The Landlord received the Proceeding Package from the Residential Tenancy Branch (RTB) on March 31, 2025. They served their Proceeding Package to the Tenant by email on this same date. The last page of the parties' tenancy agreement permits service by email. The Tenant confirmed receipt. I find that the Landlord's Proceeding

Package was deemed served to the Tenant on April 3, 2025 in accordance with sections 43(2) and 44 of the *Residential Tenancy Regulation* (Regulation).

The Tenant served their Proceeding Package to the Landlord by email on March 31, 2025. The Landlord confirmed receipt. I find that the Tenant's Proceeding Package was deemed served to the Landlord on April 3, 2025 in accordance with sections 43(2) and 44 of the Regulation.

## **Service of Evidence**

Neither party properly served their evidence to the other side, so the hearing was adjourned so they could re-serve their evidence to each other.

The Landlord served their evidence to the Tenant by email on June 5, 2025. The Tenant confirmed receipt. I find the Landlord's evidence was deemed served to the Tenant on June 8, 2025 in accordance with sections 43(1) and 44 of the Regulation.

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## **Preliminary Matter**

### *Adding a related matter*

The Landlord sought to add a related matter to their Application. The Landlord submitted a revised monetary order worksheet including a claim to seek compensation for liquidated damages. The Tenant was prepared to discuss this matter.

I find the liquidated damages claim pertained to the same residential property, tenancy agreement, and parties. I find that I will have to consider similar findings of fact to determine the resolution of this matter in this Application. I find that the liquidated damages claim is sufficiently related to the unpaid rent claims in the Landlord's Application. I will allow the Landlord to add this related matter to this Application as a monetary claim for other monetary losses in the tenancy.

## Issues to be Decided

### Landlord's Application:

1. Is the Landlord entitled to a Monetary Order to recover money for unpaid rent – holding security and pet damage deposits?
2. Is the Landlord entitled to a Monetary Order for compensation for a monetary loss or other money owed?
3. Is the Landlord entitled to recovery of the application filing fee?

### Tenant's Application:

1. Is the Tenant entitled to an Order for the return of part or all of the security deposit and pet damage deposit?
2. Is the Tenant entitled to recovery of the application filing fee?

## Background and Evidence

I reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on October 1, 2024. The fixed term was to end on September 30, 2025. Monthly rent was \$2,650.00 payable on the first day of each month. A security deposit of \$1,325.00 and a pet damage deposit of \$1,325.00 were collected at the start of the tenancy and are still held by the Landlord.

The Landlord is seeking compensation for the following items:

### Unpaid rent – April 2025:

The Tenant emailed the Landlord on February 5, 2025 providing their notice to terminate their tenancy. The Tenant wrote, *"This is my 1 month lease termination notice for [address] which would put me at Mar 5 in writing – orally this was discussed on Jan 24."* The Tenant testified that the tenancy end date was March 7, 2025 as this date corresponds to when the Tenant had the rental unit professionally cleaned. The Tenant paid for the full month of March 2025, but disagrees that they owe the Landlord rent for April 2025. The Tenant stated that the Landlord took a long time to lower their rental

rate, and the Tenant feels by only lowering the rental rate on March 5, 2025, the Landlord was not minimizing their loss.

The Landlord began putting out notices through rental applications, like Rentals.ca, Facebook Marketplace, Liv.Rent, and Craigslist. The Landlord uploaded email correspondence, or samples of their posts on web platforms demonstrating that they were actively searching for a new tenant. The Landlord said they had to do additional cleaning and some repairs to the rental unit, so it was not possible to have the rental unit ready for an April tenancy. The Landlord also reduced the asking rent amount from \$2,650.00 to \$2,350.00. The Landlord secured a new tenant for May 1, 2025, so the Landlord seeks rental compensation for April 2025 because they were in a fixed term tenancy.

**Difference in lease rent vs. new tenant's rent amount:**

The Landlord reduced the asking amount for rent in their search for new a tenant. The Landlord secured a new tenant for May 1, 2025, and the monthly rent is \$2,350.00. The Landlord is losing \$300.00 per month in this new tenancy and seeks this difference to the end of the fixed term of September 30, 2025 totaling \$1,500.00.

The Tenant agreed they owe the Landlord this amount.

**Liquidated damages:**

Section 5 of the parties' tenancy agreement states:

**5. LIQUIDATED DAMAGES.** ... or if the tenant provides the landlord with notice, whether written, oral, or by conduct, of an intention to breach this Agreement and end the tenancy by vacating, and does vacate before the end of any fixed term, the tenant will pay to the landlord the sum of \$2850.00 as liquidated damages and not as a penalty for all costs associated with re-renting the rental unit. Additionally, the tenant will pay any rental revenue losses or damages caused by the early end of the tenancy, and any other amounts owing to the landlord under this Agreement.

The Landlord seeks \$2,850.00 for liquidated damages, and specifically for payment to web platforms to advertise re-renting of the rental unit, for their time showing, and for vetting potential tenants.

The Tenant wanted to pay the Landlord the liquidated damages amount in lieu of the time it took the Landlord to re-rent the suite. The Tenant testified that it took the Landlord three whole months to find a new tenant for the rental unit.

### **BC Hydro:**

The parties' tenancy agreement included additional fees for electricity and wifi. The Landlord initially sought \$60.00 per month for the months of March and April 2025. The Landlord said this was an amount that the Tenant had earlier suggested was their regular usage amount. The Tenant said they were not in the rental unit then, so the hydro consumption could not have been that high. The Landlord agreed to lower the rate to \$40.00 per month.

### **Wifi:**

The parties agreed that if the Landlord provides copies of the internet bills to the Tenant, then the Tenant would compensate the Landlord \$78.00 per month for March and April 2025. The Landlord agreed to provide copies of the bills to the Tenant by June 30, 2025.

### **Tenant's Application for the return of some or all of their deposits:**

The Tenant applied for the return of their deposits. The Landlord seeks to offset their monetary claims using the deposits that they still hold.

### **Analysis**

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

### **Settled matters:**

Under section 63 of the Act, parties may settle their dispute. The parties reached a mutual agreement on some parts of the Landlord's Application.

The Landlord submitted, and the Tenant agreed that:

- they owe the Landlord the difference in lease rent vs. the new tenant's rent amount totaling \$1,500.00; and,

- they owe the Landlord \$78.00 per month for wifi for the months of March and April 2025 totaling \$156.00. The Landlord is to provide copies of their wifi bills to the Tenant.

**I order** the Landlord to provide copies of the wifi bills to the Tenant for the months of March and April 2025. To give effect to this agreement, I grant the Landlord monetary compensation totaling **\$1,656.00** under section 64.2 of the Act for this part of the Landlord's Application.

### **Is the Landlord entitled to a Monetary Order for unpaid rent?**

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

Section 45 of the Act sets out how and when a tenant in a fixed term tenancy may give notice to end their tenancy. It states:

#### ***Tenant's notice***

**45** ...

- (2) *A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that*
  - (a) *is not earlier than one month after the date the landlord receives the notice,*
  - (b) *is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and*
  - (c) *is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.*

... (emphasis added)

The end of the fixed term in this tenancy was September 30, 2025. The Tenant in this matter under section 45(2)(b) of the Act cannot end the tenancy earlier than the date specified in the tenancy agreement as the end of the tenancy. The Tenant is required to pay rent for the entire fixed term. The Tenant disagrees that they owe rent for April 2025

as they felt the Landlord did not minimize their losses when the Tenant provided their notice to end the fixed term tenancy. I disagree with the Tenant that the Landlord must minimize their losses in this regard, but if I am wrong, I find that the Landlord acted promptly in their search for a new tenant. They engaged the services of rental websites looking for a new tenant, but was only successful finding a new tenant, albeit at a lower rental amount, for May 1, 2025.

BC Hydro costs are a utility fee in addition to the rent owing to the Landlord. The Tenant did not dispute that they owe outstanding utilities to the Landlord but they disputed the amount submitted by the Landlord as they were not living in the rental unit for the two months claimed so the electricity costs would have been lower. The Landlord reduced the amount claimed to \$40.00 per month in the hearing, therefore, I find this reduction reasonable, and I grant the Landlord \$80.00 for BC Hydro costs for the months of March and April 2025.

Under section 7(1) of the Act, due to the Tenant not complying with the Act or their tenancy agreement, I find the non-complying party must compensate the other for damage or loss that results. I find the Tenant is responsible for the Landlord's lost rental revenue in the month of April 2025.

Based on the parties' submissions, evidence, and on a balance of probabilities, I find the Landlord is entitled to **\$2,730.00** (\$2,650.00 + \$80.00) compensation for lost rent in April 2025 and utilities in the months of March and April 2025 under section 67 of the Act.

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

Under section 67 of the Act, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the Landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and,
4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Residential Tenancy Policy Guideline #4-Liquidated Damages (PG#4) provides a statement of the policy intent of the legislation. PG#4 deals with situations where a party seeks to enforce a clause in a tenancy agreement providing for the payment of liquidated damages.

The Landlord submitted, and the Tenant confirmed that they vacated before the end of their fixed term tenancy. The Landlord had to advertise, show, vet potential tenants, and complete paperwork to get the rental unit re-rented. I find the Landlord proved that the liquidated damages were not a penalty, but rather a genuine pre-estimate for this loss.

The parties agreed in the tenancy agreement on this provision, therefore, I find that the Landlord has substantiated their claim for liquidated damages totaling \$2,850.00.

Therefore, I find the Landlord is entitled to a Monetary Order for loss under the tenancy agreement under section 67 of the Act in the amount of **\$2,850.00**.

**Is the tenant entitled to a Monetary Order for the return of all or a portion of their security and/or pet damage deposit?**

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it.

The Tenant said the end date of the tenancy was March 7, 2025 as they had completely vacated the rental unit by then, and had it professionally cleaned.

The Tenant had provided a notice of termination to the Landlord by email on February 5, 2025 that they would vacating on March 5, 2025. I find this notice was deemed served to the Landlord on February 8, 2025 in accordance with sections 43(1) and 44 of the Regulation.

The Landlord said the end date of the tenancy was March 15, 2025. The Landlord further stated that although most of the Tenant's things were out of the rental unit, there was still cleaning and other items that needed repair prior to them being able to re-rent the rental unit.

Under section 45(2)(a) and (c) of the Act, the legislation states that a tenant's notice to end a fixed term tenancy is effective on a date that is not earlier than one month after



the date the landlord receives the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. Therefore, the Tenant's end date of tenancy was March 31, 2025 for the purposes of determining the return of the security and pet damage deposits.

The Landlord applied to retain the deposits for unpaid rent on March 30, 2025. I find, under section 72 of the Act, that the Landlord is entitled to retain the Tenant's security and pet damage deposits plus interest totaling \$2,682.34, in partial satisfaction of the monetary award.

### **Are the parties entitled to recover their application filing fees?**

I find that both parties achieved some successes in their Applications, and as granting recovery of application filing fees is discretionary under section 72(1) of the Act, I do not grant the parties recovery of their application filing fees for their claims. Each party must bear the cost of their application filing fees in this matter.

The Landlord's monetary award is calculated as follows:

Item	Amount
Rent - April 2025	\$2,650.00
Liquidated damages	\$2,850.00
Rent difference with new tenants	\$1,500.00
Wifi costs for March and April 2025	\$156.00
BC Hydro costs for March and April 2025	\$80.00
Less security deposit	-\$1,325.00
Less pet damage deposit	-\$1,325.00
Less deposit interest*	-\$32.34
Landlord's monetary award:	\$4,553.66

\*The amount of interest in 2024 was 2.7%. The amount of interest in 2025 is 0.95%. Interest is calculated on the original security and pet damage deposit amounts, before any deductions are made, and it is not doubled. Interest was calculated using the Residential Tenancies Online Tools: Deposit Interest Calculator.

### **Conclusion**

**I order** the Landlord to provide copies of the wifi bills to the Tenant for the months of March and April 2025.

**I grant** the Landlord a Monetary Order in the amount of **\$4,553.66**, and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court of British Columbia and enforced as an Order of that 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: July 30, 2025

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Residential Tenancy Branch