



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Introduction

This hearing dealt with an Application for Dispute Resolution by both parties under the *Residential Tenancy Act* (the Act) for:

- Unpaid rent
- Retain security deposit plus interest towards any amount owed
- Cost of repairs to the unit, site or property
- Cleaning costs
- Filing fee for Landlord (Tenant filing fee was already waived)
- Illegal rent increase compensation and return of 30% of utilities plus grass cutting machine
- Compensation of "\$10,000.00 for unlawful rent increases and other Tenant hardships caused by Landlord's actions"
- Return of the security deposit

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary Matters

The hearing lasted a total of 146 minutes. This decision will be emailed to both parties at the email addresses for both parties confirmed during the hearing.

Issues to be Decided

- Does either party owe the other party any monetary compensation?
- What should happen to the security deposit of the Tenants?
- Should either party received compensation for their filing fee?

Facts and Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

A copy of the tenancy agreement was submitted in evidence, which began on May 17, 2021. Monthly rent was \$3,200.00 per month and due on the first day of each month. The Tenant paid the Landlord a \$1,600.00 security deposit that the Landlord continues to hold.

The Landlord filed their application on May 6, 2025, and the Tenant filed their application on April 23, 2025.

To be awarded compensation for a breach of the Act, an applicant must prove:

- the other party 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 applicant acted reasonably to minimize that damage or loss

Tenant's application

Item 1 – The first item of the Tenants' application is related to the illegal rent increases. The following information was provided:

A. Tenancy agreement 1: The original tenancy agreement was a fixed-term tenancy that automatically converted under the Act to a month-to-month tenancy after June 30, 2022. Original rent was \$3,200.00 per month.

B. Tenancy agreement 2: The Landlord requested the Tenants sign a new fixed-term tenancy agreement of 1 year in May 2022 effective July 1, 2022, which the parties did, agreeing to a new rent amount of \$3,248.00, which is a rent increase of exactly 1.5%, the maximum for 2022.

C. Tenancy agreement 3: The Landlord requested the Tenants sign a new fixed-term tenancy agreement of 1 year in March 2023, which the parties did, agreeing to a new rent amount of \$3,313.00 effective July 1, 2023, a rent increase of \$65.00, although the maximum rent increase was 2% for 2023, which would have been at maximum of \$64.96. The Landlords stated they were not aware that

could not round up from \$64.96 to \$65.00 when calculating a rent increase. The parties were advised that the rent increase for 2023 was increased contrary to the Act, which I will address later in this decision. The Landlords stated they were not aware that could not round up from \$64.96 to \$65.00 when calculating a rent increase. The Landlord added the wording “The Landlord and Tenant agree that, at the end of this Tenancy term, the Tenancy ends and the Tenant must move out of the Residential Property.”

D. Tenancy agreement 4: The Landlord requested the Tenants sign a new fixed-term tenancy agreement of 2 months in April 2024, which the parties did, agreeing to a new rent amount of \$3,650.00 as of July 1, 2024, a rent increase of \$337.00, although the maximum rent increase was 3.5% for 2024, which would have been a maximum of \$115.95. Again, the Landlord added the wording “The Landlord and Tenant agree that, at the end of this Tenancy term, the Tenancy ends and the Tenant must move out of the Residential Property.”

E. Tenancy agreement 5: The Landlord requested the Tenants sign a new fixed-term tenancy agreement of 4 months in July 2024, which the parties did, agreeing to a new rent amount of \$3,700.00 as of September 1, 2024, a rent increase of \$50.00, although a rent increase is only permitted once per year under the Act and the previous 2024 rent increase was already \$337.00, which was \$221.05, which makes tenancy agreement 5, \$271.05 more than the 3.5% increase permitted under the Act. Again, the Landlord added the wording “The Landlord and Tenant agree that, at the end of this Tenancy term, the Tenancy ends and the Tenant must move out of the Residential Property.”

F. Tenancy Agreement 6: The Landlord requested the Tenants sign a new fixed-term tenancy agreement of 3 months in July 2024, which the Tenants made the decision not to sign after consulting with the Residential Tenancy Branch (RTB). As a result, the final tenancy agreement signed between the parties was Tenancy Agreement 5.

On December 11, 2017, the Act changed to close a common loophole used by Landlords to request Tenants to sign back-to-back fixed-term tenancy agreements as a way of circumventing the rent control provisions of the Act. Section 5 of the Act applies and states that any attempt to contract out or avoid the Act is of no effect.

RTB Policy Guideline 30 – *Fixed Term Tenancies* (PG 30) supports this, and states as follows:

F. Renewing a Fixed Term Tenancy Agreement

A landlord and tenant may agree to renew a fixed term tenancy agreement with or without changes, for another fixed term. If a tenancy does not end at the end of the fixed term, and if the parties do not enter into a new tenancy agreement, the tenancy automatically continues as a month-to-month tenancy on the same terms. **Rent can only be increased between fixed-term tenancy agreements with the same tenant if the notice and timing requirements for rent increases are met.** [emphasis added]

Based on the above, I find the Landlord breached the Act by requesting the Tenants sign a new fixed-term tenancy agreement in March 2023 (Tenancy Agreement 3 described above) when the fixed-term tenancy automatically converted to a month-to-month tenancy after June 30, 2022 and that the amount increased exceeded Part 3 of the Act, which address rent increases. I find the second tenancy agreement, however, did not exceed the rent increase amount of 1.5% for 2022, so I have not gone further back than 2022 in this decision as a result.

I find that Tenancy Agreement 3 given that the rent increase exceeded what the Act permits and is of no force or effect. I find the Tenants overpaid rent of \$65.00 for the months of July 2023 to June 2024, which is 12 months for a total of **\$780.00**, which under section 67 of the Act, I grant to the Tenants compensation due to the Landlord's violation of Part 3 of the Act, which relate to rent increases.

Consistent with this finding, I also grant the Tenants the overpayment of rent for each of the subsequent tenancies described above as follows:

- Tenancy Agreement 4: I find that between July 1, 2024, and August 2024, that the Tenants paid \$337.00 too much for 2 months and that the Landlords must return a total of **\$674.00** under section 67 of the Act due to the Landlord's violation of Part 3 of the Act.
- Tenancy Agreement 5: I find that between September 1, 2024, and February 2025, as March 2025 rent was free as the compensation month due to the notice to end tenancy served on the Tenants by the Landlords, that the Tenants paid \$387.00 too much for 6 months. I find the Landlords must return a total of **\$2,322.00** under section 67 of the Act due to the Landlord's violation of Part 3 of the Act.

Item 2 – The Tenants’ second item relates to the cost of a lawnmower that is dismissed without leave to reapply, due to insufficient evidence. I find the Tenant was not obligated to purchase a lawnmower. In the future, the Tenant is reminded that they can apply for dispute resolution to determine who should purchase a lawnmower, however, in the matter before me, the Tenant was not required to provide a lawnmower and by doing so I find the lawnmower purchased by the Tenant remains the property of the Tenant. If the Landlords continue to possess the lawnmower purchased by the Tenant, I ORDER the Landlords to return the lawnmower to the Tenant within 10 days after the receipt of this decision under section 62(3) of the Act.

Item 3 – The Tenants’ third item is for the return of their \$1,600.00 security deposit at the Landlords continue to hold. There was no copy of a written forwarding address provided in evidence. The Landlords confirmed that on April 22, 2025, they received the Tenants’ written forwarding address by phone, which is not an approved method of service. The Landlords filed their application claiming against the Tenants’ security deposit on May 6, 2025, which I find is within the 15-day timeline under section 38 of the Act. I find the interest accrued on the security deposit under the Act is \$84.01.

Therefore, I find the Landlord continues to hold a security deposit plus interest amount of \$1,684.01, which I will address later in this decision.

Item 4 – The Tenants’ fourth item is for \$10,000.00 for loss of enjoyment of the rental unit, which was dismissed in full during the hearing as I find the Tenants failed to provide a breakdown of this portion of their claim as required under section 59(2)(b) of the Act.

Given the above, I find the Tenants’ have proven a total monetary claim in the amount of **\$2,996.00**, before dealing with the Tenants’ \$1,684.01 security deposit including interest.

Landlords’ application

The Landlords’ monetary claim is as follows:

Attach copies of receipts or professional estimates to support your claim. Please number each document for easy reference.			
Document Number	Receipt / Estimate From	For	Amount
#1	Water/sewer bills and furnace filter receipt	unpaid utility and maintenance	\$773.26
#2	Trampoline dismantling and removal fee	dismantling and removal of	\$200.00

#3	Estimate of repair of damaged carpet/floor	repair of damaged carpet/floor	\$7,023.00
#4	Estimate of repair of damaged wall	repair of damaged wall	\$6,000.00
#5	Estimate of repair of damaged lawns/garage	repair of damaged lawns/garage	\$5,000.00
#6	Estimate of two locks	two missing keys to two locks	\$108.00
#7	Estimate of bulbs	> 20 light bulbs either missing	\$155.00
#8	Additional mortgage payment	tenant's breach of Tenancy	\$12,330.00
#9			\$
#10			\$
Total monetary order claim			\$31,589

Item 1 – The Landlord has claimed \$773.26 for unpaid utilities and furnace filters. Firstly, I find furnace filters are not the responsibility of the Tenants as per RTB Policy Guideline 1 – *Landlord and Tenant – Responsibility for Residential Properties* (PG 1) which states that Landlords are responsible for replacing furnace filters, cleaning heating ducts and ceiling vents as necessary.

In addition, I disagree with the Landlords who stated that while they rented out the basement to someone who was using it as storage for their Amazon items for sale (Basement Tenants), I find that the Landlords stating that the Basement Tenants did not use any utilities is not truthful or accurate. As such, I reduce the \$773.26 amount to \$610.41 after removing the cost of the dismissed furnace filters.

Regarding the remaining \$610.41, the Landlords admitted that they did not serve the August 2024 utility bills served until February 2025. I find that delay is unconscionable for the Tenant to be surprised with several large utility bills over 6 months later and that the Landlord's actions have resulted in the Tenants being able to rely on estoppel in terms of paying utilities.

Estoppel is a rule of law that states when person A, by act or words, gives person B reason to believe that a certain set of facts upon which person B takes action, person A cannot later, to their benefit, deny those facts or say that their earlier act was improper. In effect, estoppel is a form of waiver, when person A does not enforce their rights and person B relies on this waiver. Therefore, I find the Landlord is estopped from claiming

for utilities 6 months after bills were created due to the delay caused by the actions of the Landlord.

In addition, something that is unconscionable during the tenancy is not enforceable under the Act under section 6(3)(b) of the Act. Therefore, I dismiss the remainder of the \$610.41 claim for unpaid utilities in full due to insufficient evidence, without leave to reapply. In the future, the Landlords are reminded to serve a copy of the unpaid utilities in a timely manner, which I find the Landlord failed to do.

Item 2 – The Landlord has claimed \$200.00 to remove a trampoline, which I grant in full based on a text from the Tenant agreeing to keep the trampoline from the prior tenant. I find by agreeing to take ownership of the trampoline that the Tenant was not authorized to leave it behind when they vacated the rental unit. As such, I grant **\$200.00** for this item under section 67 of the Act.

Item 3 – The Landlord has claimed \$7,023.00 to repair damaged carpet/flooring. The Landlord testified that they purchased the rental property in 2019. The Landlord stated that in 2021, when the tenancy began the carpets were 10 years old and then admitted that they were unsure on the age of the carpets. The Tenants stated that the carpet looked 40 years old and were rotten in places, which is supported by the photo evidence submitted near the sliding glass door.

The Landlord confirmed that the home was built in 1990 and based on the photo evidence, I find that the carpets were more likely than not original carpets. RTB Policy Guideline 40 – *Useful Life of Building Elements* (PG 40) sets carpets at a useful life of 12 years. Therefore, I find this portion of their claim has depreciated by 100% and is therefore, dismissed without leave to reapply due to insufficient evidence.

Item 4 – The Landlord has claimed \$6,000.00 to repair a damaged wall. The Landlord was unable to confirm when the last time the rental unit had been painted. PG 40 sets interior wall paint useful life of 6 years. Therefore, I find this portion of their claim has depreciated by 100% and is therefore, dismissed without leave to reapply due to insufficient evidence. In addition, I find the Landlord provided no invoice or quote and that the document submitted is not a proper quote and is just created by the Landlords themselves without citing any sources.

Item 5 – The Landlord has claimed \$5,000.00 to repair the lawns and garden, all of which I dismiss without leave to reapply due to insufficient evidence. I find there was no photo evidence before me to support that the lawns and garden were in reasonably

good condition at the start of the tenancy. In addition, I find the quote submitted is not a proper quote and is just created by the Landlords themselves without citing any sources.

Item 6 – The Landlord has claimed \$200.00 for the cost of 2 missing keys to the rental unit. I have reviewed the supporting documents and find that the quote is not sufficient to support the claim as I find this was created by the Landlord and there are no receipts that the locks or keys were purchased only an online printout from Home Depot. As a result, I am not satisfied that the Landlord's incurred a loss at the amount of \$200.00. To reflect the breach of the Tenants by failing to prove they returned both keys, as required by section 37 of the Act, I award a nominal award of \$50.00 to the Landlords to reflect the Tenants breach of the Act.

Item 7 – The Landlord has claimed \$155.00 for the cost to replace 21 burned out bulbs in the rental unit. I find the Landlords have not complied with section 7 of the Act, which requires an applicant to minimize their damage or loss. I find the light bulb costs of \$155.00 to be excessive. As a result, I grant \$3.00 per bulb at a total cost of \$63.00 and dismiss any amount higher due to the Landlord failing to comply with section 7 of the Act.

Item 8 – The Landlord has claimed \$12,330.00 for the cost of additional mortgage payments, which is dismissed without leave to reapply as the Tenant is not responsible for Landlords' mortgage payments. The Landlords are reminded that there are no such remedies under the Act.

As the Landlord's claim had some merit, I grant the Landlord the \$100.00 filing fee under section 72 of the Act.

Given the above, I find the Landlords have established a total monetary claim of **\$413.00** comprised of \$200.00 for item 2, \$50.00 for item 6, \$63.00 for item 7 plus the \$100.00 filing fee.

I will now address the Tenant's claim for the return of their \$1,684.01 security deposit including interest, which the Landlord continues to hold. The Landlord testified they received a forwarding address by phone from the Tenants on April 22, 2025, and filed their claim against the security deposit on May 6, 2025. Section 38(1) of the Act states that the Landlord must return or make an application to claim against the security deposit within 15 days of the latter of 2 days, the end of tenancy date or the date the written forwarding address is received.

In the matter before me, the latter date is April 22, 2025. While I find that by phone is not the appropriate method of service of a written forwarding address, I find the Landlord regardless applied within 15 days of April 22, 2025, by filing their claim on May 6, 2025. I find the Landlord did not breach section 38 of the Act as a result. I offset the \$413.00 Landlords' claim from the Tenants' claim of \$2,996.00, I find the balance owed by the Landlords to the Tenants before accounting for the security deposit plus interest is \$2,583.00. Therefore, after adding the \$1,684.01 security deposit including interest, I find the Landlords owe the Tenant a total monetary amount of **\$4,267.01**. I grant the Tenants a Monetary Order under section 67 of the Act in that amount.

Conclusion

After offsetting the Landlord's claim from the Tenants' claim, and accounting for the security deposit plus interest, I find the Landlords owe the Tenants \$4,267.01. The Tenants are granted a monetary order in that amount under section 67 of the Act.

The Tenants are provided with this Order in the above terms and the Landlords must be served with this Order before it is enforced. Should the Landlords fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court) if equal to or less than \$35,000.00.

The decision will be emailed to both parties.

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 17, 2025

Residential Tenancy Branch