



## **DECISION**

### **Introduction**

This hearing dealt with the parties' applications for dispute resolution under the *Residential Tenancy Act* (the "Act").

The Landlords applied for:

- \$800.00 for monetary loss or other money owed under section 67 of the Act;
- authorization to retain the security deposit of \$800.00 under section 38 of the Act; and
- authorization to recover the Landlords' filing fee under section 72 of the Act.

The Tenant applied for:

- return of the security deposit of \$800.00 under section 38 of the Act; and
- authorization to recover the Tenant's filing fee under section 72 of the Act.

The Landlords, the Tenant, and the Tenant's friend LM attended this hearing. All attendees who gave testimony did so under oath.

### **Service of Notice of Dispute Resolution Proceeding and Evidence**

The parties confirmed receipt of each other's notice of dispute resolution proceeding and evidence.

### **Issues to be Decided**

Are the Landlords entitled to compensation for monetary loss or other money owed?

Are the Landlords entitled to retain the security deposit?

Are the parties entitled to recover their filing fees?

### **Background and Evidence**

I have reviewed all the evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The rental unit is a basement suite. The Landlords had listed the unit for rent at \$1,600.00 per month. The Tenant viewed the unit and submitted an application on or about May 18, 2025.

On May 22, 2025, the Tenant paid a security deposit of \$800.00 and a pet damage deposit of \$100.00. The Landlords issued the Tenant a receipt for the deposits and confirmed the start date of June 15, 2025.

On or about June 1, 2025, the Tenant texted the Landlords to advise that he will not be able to move into the rental unit on June 15, 2025 as planned due to a family emergency. The Tenant requested the return of the deposits.

On June 2, 2025, the Tenant served the Landlords with a formal notice to cancel the tenancy and the Tenant's forwarding address in writing.

The Landlords returned \$100.00 for the Tenant's pet damage deposit to the Tenant on June 4, 2025.

The Landlords made their application on June 13, 2025. The Landlords seek compensation of \$800.00 for lost rental income from June 15 to 30, 2025 and to retain the security deposit.

### *The Landlords' Position*

When the Tenant paid the deposits, the Tenant was told that the Landlords would not be showing the place anymore and would be taking all of the advertisements down, since the Tenant was set to move in on June 15, 2025. The Landlords had selected the Tenant after conducting a background check. The Tenant was asked to send the deposits to secure the unit. The Landlords had another person who was interested.

The Landlords did not accept the Tenant's text message to cancel and requested a handwritten letter. After receiving the Tenant's letter on June 2, 2025, the Landlords informed the Tenant that due to the short notice, the Landlords will have a difficult time trying to find a new tenant. The Landlords told the Tenant that if they could find someone to start on June 15, 2025, they would be more than happy to give the security deposit back. The Landlords returned the pet damage deposit to the Tenant because the Tenant's pets never lived in the unit.

The Landlords contacted another previously interested person but was told that they already found a place. The Landlords re-advertised the unit for rent on June 2, 2025. The Landlords were unable to find a new tenant for June 15, 2025 and lost rent for the last two weeks of June.

The Landlords had a difficult time re-renting the unit because it did not include laundry, which the Tenant was fine with. The Landlords tried to lower the monthly rent to

\$1,550.00 but it did not work. The Landlords were eventually able to find new tenants for July 1, 2025 after agreeing to install laundry in the unit. The new tenants currently use the Landlords' laundry upstairs while their laundry is being installed. The new tenants' monthly rent is \$1,700.00 because laundry is included.

### *The Tenant's Position*

The Tenant's mother experienced personal health problems, which first occurred on May 15, 2025 and again on June 1, 2025. As a result, it was decided that the Tenant's mother could not be left alone and the Tenant texted the Landlords to advise that he could no longer move into the rental unit.

The Tenant's understanding is that the tenancy is only formed if the parties had legally signed an agreement or if the Tenant had taken possession of the unit. Nothing was signed by the parties. The Landlords found new people to move in and did not suffer any actual losses.

The Tenant was new to renting and was being rushed by the Landlords to confirm. The Landlords had insisted that the Tenant pay immediately on May 22, 2025 or the suite would be taken for someone else. The Tenant did not think that the Landlords would be in a position to hold the money and make new claims.

## **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.

### **Are the Landlords entitled to compensation for monetary loss or other money owed?**

#### *Establishment of Tenancy Agreement*

Section 1 of the Act defines a "tenancy agreement" to mean "an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit" (emphasis underlined).

In other words, it is not necessary for landlords and tenants to sign a written tenancy agreement for a legal tenancy to be established.

A contract is formed where there is an offer by one party accepted by the other, with the intention of creating a legal relationship, and supported by consideration.

In this case, I find there was a valid oral and implied tenancy agreement between the parties for a monthly tenancy commencing on June 15, 2025, with rent of \$1,600.00 per

month. I find the Landlords had offered the unit for rent, and this offer was accepted by the Tenant. I find there was a meeting of the minds between the parties on the essential terms of the tenancy agreement, including the unit to be rented, the rent payable, and the start date. I find there was consideration in the parties' implied promises for the possession of the rental unit in exchange for the payment of rent. I find there was also consideration in the form of the Tenant's payment of a security deposit (and pet damage deposit) to the Landlords.

Under section 17 of the Act, a landlord may require a tenant to pay a security deposit as a condition of entering into a tenancy agreement or as a term of a tenancy agreement. A landlord must not require a security deposit at any time other than when the landlord and tenant enter into the tenancy agreement (section 20(a) of the Act).

I further note the [Residential Tenancy Branch website](#) states as follows:

**A tenancy starts once the tenant pays the deposit**

Once the tenant has paid the deposit, the tenancy is considered to be established. The landlord can't decide to rent the unit to someone else.

If a tenant pays a security deposit but decides not to move in, the landlord can seek dispute resolution to use the deposit for unpaid rent. **Dispute resolution is a process to help resolve conflicts between landlords and tenants.**

For these reasons, I conclude that there was a valid tenancy agreement between the parties.

I note I find there is insufficient evidence that the parties had specifically agreed the Tenant would pay half of the month's rent on June 15, 2025 and then pay the monthly rent on the first day of each month thereafter. As such, I find it was implied that the monthly rent of \$1,600.00 would be due on the 15th day of each month based on the tenancy start date of June 15, 2025.

*Tenant's Cancellation and Breach*

Section 16 of the Act states that the "rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit" (emphasis underlined).

Therefore, even though the Tenant never moved into the rental unit, I find the Tenant was required to give proper notice to end the tenancy in accordance with the Act.

Under section 45(1) of the Act, a tenant may end a periodic tenancy (a non-fixed term tenancy such as a monthly tenancy) by giving the landlord notice to end the tenancy 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.

(emphasis underlined)

Section 52 of the Act requires that in order to be effective, a notice given by a tenant under section 45(1) of the Act must be signed and dated by the tenant giving the notice, must give the address of the rental unit, and must state the effective date of the notice.

Since the tenancy was set to commence on June 15, 2025, I find that by giving the Landlords a written notice on June 2, 2025, the earliest date that the Tenant could have legally ended the tenancy would have been July 14, 2025. I find the Tenant was required to pay the Landlords full rent of \$1,600.00 due on June 15, 2025, so that the Landlords would have had at least one clear month to find new tenants for July 15, 2025.

I find the Tenant nevertheless ended the tenancy immediately on June 2, 2025 and did not give the Landlords sufficient notice as required under section 45(1) of the Act. I find the Tenant also did not pay the Landlords rent that was due on June 15, 2025.

#### *Compensation for Landlords' Loss*

Section 67 of the Act states that if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

According to Residential Tenancy Policy Guideline 3. Claims for Rent and Damages for Loss of Rent, compensation is to put the landlord in the same position as if the tenant had complied with the legislation and tenancy agreement. Compensation will generally include any loss of rent up to the earliest time that the tenant could have legally ended the tenancy.

I find that if the Tenant had complied with the Act, the Landlords would have received rent of \$1,600.00 for the first month from June 15, 2025 to July 14, 2025.

I find the Landlords suffered a loss of rental income of \$1,600.00 –  $(\$1,700.00 \times 14/31 \text{ days}) = \$832.26$  over this period. This is because I find the Landlords received no rent from June 15 to 30, 2025 and effectively received only \$767.74 from July 1 to 14, 2025 (prorated for 14 days based on the Landlords having received \$1,700.00 for the period from July 1 to 31, 2025). However, I find the Landlords have claimed compensation of \$800.00 only, so I cap their loss at the amount claimed.

I find the Landlords acted reasonably to minimize their loss of rent by contacting a previously interested potential tenant, re-listing the unit as soon as possible, trying to

lower the rent, and offering to add laundry services so that the unit can be re-rented quickly.

Therefore, I find the Landlords are entitled to compensation of \$800.00 from the Tenant for lost rent between June 15 and July 14, 2025 as claimed.

### **Are the Landlords entitled to retain the security deposit?**

Under section 38(1) of the Act, a landlord must (a) repay a security or pet damage deposit to the tenant or (b) make an application for dispute resolution claiming against the deposit, within 15 days after the later of:

- the tenancy end date, or
- the date the landlord receives the tenant's forwarding address in writing,

unless the landlord has the tenant's written consent to keep the deposit or a previous order from the Residential Tenancy Branch.

I find the Landlords received the Tenant's forwarding address in writing on June 2, 2025, the day that the Tenant terminated the tenancy agreement.

I find the Landlords correctly returned the pet damage deposit to the Tenant by June 4, 2025, since the Landlords did not have a claim for pet damage and the parties did not inspect the unit together or complete a report. I find the Landlords made their application to claim against the security deposit on June 13, 2025. I find the Landlords complied with the 15-day limit required under section 38(1) of the Act with respect to both deposits.

I have found above that the Landlords are entitled to compensation from the Tenant equal to the security deposit held.

Therefore, pursuant to sections 38(4)(b) and 72(2)(b) of the Act, I authorize the Landlords to retain the \$800.00 security deposit in full.

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

The Landlords have been successful in their application. I find the Landlords are entitled to recover their filing fee from the Tenant under section 72(1) of the Act.

The Tenant has not been successful in his application. Therefore, I find the Tenant is not entitled to the recovery of his filing fee.

## Conclusion

The Landlords are entitled to compensation of \$800.00 for lost rental income and \$100.00 for their filing fee. The Landlords are authorized to retain the \$800.00 security deposit.

Pursuant to section 72(1) of the Act, I grant the Landlords a Monetary Order of **\$100.00** for the balance. The Landlords must serve this Order on the Tenant as soon as possible. If the Tenant does not comply with this Order, this Order may be filed and enforced in the Small Claims Division of the Provincial Court of British Columbia.

The Tenant's application is dismissed in its entirety without leave to re-apply.

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 17, 2025

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Residential Tenancy Branch