courtready

24010529 (Re), 2025 ABRTDRS 7

This decision forms part of Courtready.ca's Canadian Deepfake and Disputed Digital Evidence Database, which tracks Canadian court and tribunal decisions where the authenticity of a photo, video, audio recording or text message was disputed or decided. Inclusion in the database does not mean that any evidence in this decision was found to be fake. Courtready.ca obtained this decision from the Canadian Legal Information Institute (CanLII).

FULL DATABASE
https://courtready.ca/deepfake-evidence-in-canadian-courts/

Alberta
Residential Tenancy Dispute Resolution Service

Citation: 24010529 (Re), 2025 ABRTDRS 7
File No.: R24/010529 & R24/011860
Date of hearing: 2024.09.25 & 2024.10.02 & 2024.10.31 & 2024.11.28 & 01.13.25 & 02.10.25
Decision rendered: 2025.03.16

2025 ABRTDRS 7 (CanLII)

Reasons for the Decision of
J. Lambert, Tenancy Dispute Officer

Procedural Background

On September 3, 2024, the Tenants filed an application at the Residential Tenancy Dispute Resolution Service ("RTDRS") seeking the return of their security deposit. The matter was scheduled to be heard by my colleague, Tenancy Dispute Officer ("TDO") J. Taylor on September 25, 2025. After finding that the Landlord was not served in sufficient time to satisfy the timelines required by the RTDRS *Rules of Practice & Procedure*, TDO Taylor adjourned the matter to October 2, 2024

On October 1, 2024, the Landlord filed a counter-application against the Tenants, seeking a judgment for unpaid rent, damage to the rental premises, and loss of rental income.

On October 2, 2024, TDO Taylor conducted a preliminary hearing discussing the issues in dispute under both applications and determining further procedure necessary for the proceedings. She elected to adjourn the hearing of both applications to October 31, 2024.

On October 31, 2024, TDO Taylor attempted to continue the hearing, but could not successfully establish a teleconference with the Landlord's international phone number. TDO Taylor ultimately adjourned the hearing to November 28, 2024 to provide the Landlord with another opportunity to join the proceedings.

On November 28, 2024, TDO Taylor conducted a two-hour hearing. During this hearing, some basic facts were drawn out from the Tenants, while the rest of the hearing consisted of lengthy testimony given by the Landlord. TDO Taylor again adjourned the matters to January 13, 2025 for the hearing to continue.

On January 13, 2025, TDO Taylor was absent from the RTDRS unexpectedly, and was not anticipated to return until March. The matter was reassigned to me. During this hearing, I explained to the parties that I had not had an opportunity to review their filed materials or listen to the recordings of the prior proceedings. I offered to continue the hearing myself at a later date after listening to the hearings conducted by TDO Taylor first. Both parties accepted my offer,

and, after listening to the October 2, October 31, and November 28 hearing recordings, I was satisfied that I could fairly continue the hearing from where TDO Taylor had left it.

On February 10, 2025, the hearing of both applications continued, and concluded, after a final three-hour session. After closing the hearing, I elected to reserve my decision and deliver reasons in writing to the parties.

On February 11, 2025, the Landlord submitted an additional written statement for consideration to the RTDRS. As the hearing was closed, the time for the submission of additional evidence or argument was, by this point, over. For clarity, I have given no consideration to the post-hearing submissions made by the Landlord because doing so would, in my opinion, be procedurally unfair to the Tenants who did not have an opportunity to review or respond to these submissions.

2025 ABRTDRS 7 (CanLII)

The Landlord's Claim

According to the Landlord's evidence, the parties entered into a fixed term tenancy agreement that began on August 14, 2023 and was set to end on August 13, 2024. Rent was due on the 1st of every calendar month, at the monthly rate of $2,000.00.

The Tenants did not vacate the rental premises upon the expiration of the tenancy agreement on August 13, 2024, but instead vacated the rental premises on August 31, 2024. The Landlord's initial application appeared to contain a claim for $1,000.00 of unpaid rent "for Aug/Sept 2024". This was a point of some confusion throughout the various hearing dates set down for this matter. After hearing submissions from both parties, it became evident to me that the Tenants paid $2,000.00 in rent to the Landlord for the month August 2024, and the Landlord was seeking an additional $1,000.00 as either unpaid rent or compensation for loss of rental income, because he deemed the Tenants' act of overholding on the expired fixed term tenancy to create an implied monthly periodic tenancy for which the Tenants failed to pay in full.

In his filed evidence, the Landlord provided a copy of a "Check-In/Check-Out Inspection Report". The report appears to be dated August 11, 2023, although its less than crystal clear legibility causes me to be slightly uncertain about my interpretation of the document. Nonetheless, the report amounts to a series of checkmarks marking various surfaces, appliances, and fixtures in the rental premises as being in "okay" condition upon move-in. The report appears to bear the signature of one of the Tenants, although this was a source of controversy later in the hearing, with the Tenants testifying that they did not participate in any move-in report and that their signature was forged.

Upon move-out, in contrast, the report lists walls in several rooms as "needing repair", along with sections of flooring near the entrance. Additionally, floors in several rooms, as well as various components of the bathrooms, were marked as "needing cleaning". The move-out aspect of the report was dated September 1, 2024, and was not signed by the Tenants. A note written by the Landlord's agent indicated that the Tenants "abandoned abruptly" before completing the inspection process.

The Landlord alleged that the Tenants left the premises in a dirty and damaged condition. He sought judgment for a $2,200.00 repair and cleaning bill, as well as an estimated amount of

$700.00 to repair or replace allegedly damaged baseboard heating covers. During the February 10, 2025 RTDRS hearing, the Landlord clarified that his final cost of repairing the baseboard heating covers was $2,903.00, and sought a judgment in this amended amount.

The Landlord also testified that the Tenants left the keys to the rental premises inside the locked mailbox assigned to the rental premises. However, the Landlord did not possess his own key for the mailbox, and therefore had to buy new keys from a locksmith. The Landlord claimed a total of $141.75 for this expense.

2025 ABRTDRS 7 (CanLII)

The Tenants' Claim

The Tenants sought the return of their $2,000.00 security deposit and disputed the Landlord's entitlement to any amount for damage to the rental premises or rent losses.

The Tenants testified that, on August 14, 2023, they took extensive photographs of the rental premises and sent them to the Landlord. As the Landlord lived overseas, these photographs were sent by the Tenants to document the condition of the rental premises upon their move-in, presumably as a precaution in the case of a later dispute. Copies of these photographs were submitted by the Tenants to the RTDRS and uploaded to the electronic case file by an RTDRS Information Officer on September 3, 2024. Some of the conditions shown in these photographs include:

- Some light staining on carpets
- Some visible wear or scuffs on a bifold closet door
- A cracked electrical cover
- Some chipped and worn baseboards
- Some chipped or damaged laminate-type flooring material
- Noticeably worn or damaged edges on kitchen cabinetry
- Baseboard heating panels showing obvious signs of wear, dents, and other damage
- Various scuffs, scratches, stains, and nail or screw holes in walls
- A large cut-out section of drywall, with exposed plumbing or other mechanical work visible
- A general state of minor to moderate uncleanliness on various surfaces of the home, including the flooring

In short, the Tenants felt that they provided ample evidence that the rental premises was given to them with significant pre-existing damage, and that the Landlord was unfairly advancing a claim against them for damage that the Tenants did not cause or permit.

The Landlord took the position that the photographs submitted by the Tenants were fabricated to deliberately misrepresent the condition of the rental premises when the tenancy commenced. The Landlord noted that the Tenants provided each photograph to him in the form of a .JPG file, and that, when he analyzed the "properties" of each file, the metadata indicated that the files were "created" on September 19, 2024, rather than August 14, 2023. Accordingly, the Landlord

alleged that the Tenants took these photographs on September 19, 2024 and misleadingly labeled them as being taken on August 14, 2023 in their individual file names.

In rebuttal, the Tenants pointed out that these photographs were submitted to the RTDRS in early September 2024, which means that the files could not possibly have been "created" on September 19, 2024. Further, the Tenants provided both a screenshot and a text message transcript of a WhatsApp conversation from August 14, 2023, where 72 photos were sent to the Landlord. Only the first three of these photos are visible in the Tenants' screenshot, but these three photos appear to match their corresponding full-size counterparts in the disputed batch of photographs provided to the RTDRS in September 2024. In the text message correspondence, the Landlord appears to acknowledge that the floor of the premises was not clean when the property was given to the Tenants.

2025 ABRTDRS 7 (CanLII)

Analysis/Decision

i) Damages to the Rental Premises

In my opinion, the most important evidentiary issue that I must decide is whether the Tenants' photographs fairly represent the state of the rental premises at the beginning of the tenancy agreement. If I accept the Tenants' evidence as more credible than that of the Landlord, I ultimately do not see how it would be possible to hold the Tenants liable for damages. Simply put, the Tenants' photographs show a rental premises that had considerable wear and tear on the very same building elements that the Landlord alleged the Tenants damaged during the tenancy. If this wear and tear pre-existed the tenancy, no component of the Landlord's claim for damages would be reasonable, in my opinion.

The Landlord attempted to attack the reliability of the Tenants' photographs, suggesting that these images were created or doctored on September 19, 2024 for the purposes of misleading the RTDRS. This assertion is, frankly, impossible. These images were uploaded to the RTDRS on September 3, 2024, which means that the metadata viewed by the Landlord suggesting that the files were created on September 19, 2024, was simply inaccurate or misleading. The most likely explanation for this discrepancy is that, when the Landlord downloaded the files, his computer marked the files as "created" on the date that he viewed or received them.

However, this factor alone does not necessarily mean that the photographs provided by the Tenants were taken when they say they were. It is possible, for example, that the Tenants took these photos at the end of August 2024 while they were in the process of vacating the rental premises.

I ultimately conclude that the Tenants have been honest in their testimony and that their photographs of the rental premises, most likely, were taken at the start of the tenancy in August 2023. I have reached this conclusion for several reasons:

1) As mentioned, the Landlord's argument about the September 19, 2024 metadata has been thoroughly rebutted by the Tenants, and by the fact that these documents were received by the RTDRS well before September 19, 2024.

2) The Tenants have provided screenshots of their phone's camera roll, showing that the 72 images submitted to the RTDRS had a creation date of August 14, 2023.
3) The Tenants' screenshot of their WhatsApp conversation with the Landlord on August 14, 2023 shows medium-sized thumbnails of three images that match, identically to my eye, three corresponding photographs uploaded to the RTDRS case file on September 3, 2024.
4) The text transcript of the August 14, 2023 WhatsApp conversation contains an acknowledgement by the Landlord that the flooring in the home was dirty, a condition consistent with the photographic evidence provided by the Tenants.
5) If the Landlord alleges that the Tenants provided a falsified WhatsApp transcript, he passed over multiple opportunities to rebut this evidence by providing a competing transcript or screenshot of his own.
6) While the Landlord did provide some photographs of what he alleged to be the condition of the rental premises at the start of the tenancy, I note that the Landlord's photographs only provided a partial view of the baseboard heating panels. Compared with the photographs of the Tenants, the Landlord's photos were not comprehensive.
7) The Landlord testified that the walls were last painted in 2019, and that other tenants occupied the premises prior to August 2023. It would not be surprising for the walls in the rental premises to have pre-existing wear and tear after four years of occupation by other tenants.

For all of these reasons, I prefer the evidence and testimony of the Tenants over the evidence of the Landlord. While the Tenants also contended that the move-in inspection report provided by the Landlord was itself a fraudulent document, I am not necessarily prepared to endorse that opinion. However, I am convinced that, at best, the report did not accurately reflect the conditions of the rental premises at the commencement of the tenancy, and that the Tenants would not have documented the condition of the rental premises in the manner that they did (i.e. through extensive photographs) if they were convinced that the rental premises had no issues of disrepair at the start of the tenancy.

As the Landlord has failed, in my view, to prove on a balance of probabilities that the Tenants caused or permitted any significant damage or uncleanliness to the rental premises, the Landlord's claim for damages and cleaning is dismissed.

ii) Keys & Locks

When the Tenants vacated the rental premises, the Landlord was living abroad. The Tenants testified that they would have gladly handed over their keys to an agent of the Landlord on September 1, 2024, had the Landlord made such arrangements. Because the Landlord made no such arrangements, they instead left the keys in the locked mailbox and sent the Landlord a text message containing pictures of this delivery.

The Landlord disputed the Tenants' version of events, saying that he had planned to send an agent to collect the keys, but that the Tenants disregarded his request.

2025 ABRTDRS 7 (CanLII)

Under either scenario, I cannot identify any obvious breach of contract, or contravention of the *Residential Tenancies Act*, committed by the Tenants when they left the keys in the mailbox for the Landlord to collect. The Landlord's expenses in retaining the services of a locksmith therefore flowed from his choice not to retain an extra set of keys for himself or his agent, rather than any wrongdoing by the Tenants. The Landlord's claim for the locksmith's fee is dismissed.

iii) Unpaid Rent

In his oral submissions, the Landlord took the position that the tenancy agreement was terminated on August 13, 2024, and that the Tenants, by failing to vacate the rental premises on the expiration date of the tenancy agreement, bound themselves to an implied monthly periodic tenancy. Under the Landlord's theory, the first month of this implied monthly periodic tenancy would commence on August 14, 2024 and end on September 13, 2024. In the Landlord's view, the Tenants, having paid $2,000.00 for the rental period of August 1 through August 31, 2024, owed the Landlord for an additional 13 days of unpaid rent.

The Tenants testified that, on August 7, 2024, they notified the Landlord that they wished to move out at the end of August. The Tenants stated that the Landlord expressed no misgivings with this proposal, and scheduled the move-out inspection for September 1, 2024. Therefore, the Tenants were of the view that the Landlord agreed to extend their tenancy to the end of August, and that the Landlord's contention that an implied monthly periodic tenancy was created was nonsensical.

The Landlord argues that Section 13 of the *Residential Tenancies Act* essentially states that any continuation of a tenancy beyond is expiration date creates an implied periodic tenancy.

I do not agree with the Landlord's interpretation of the *Residential Tenancies Act.* In full, Section 13 states:

> **13** When a periodic tenancy is implied by operation of law after the expiration or termination of a prior fixed term tenancy, the implied tenancy, in the absence of facts showing a contrary intention, is
>
> (a) if the prior tenancy was for a fixed term of one month or more, a monthly tenancy, or
>
> (b) if the prior tenancy was for a fixed term of less than one month, a weekly tenancy.

Section 1(1)(i) of the Act defines a "periodic tenancy" as meaning:

> (i) a tenancy under a residential tenancy agreement that is renewed or continued without notice,
>
> (ii) with respect to a fixed term tenancy that contains a provision allowing for renewal or continuation of the tenancy without notice, that part of the tenancy that arises after the end of the fixed term tenancy, and

2025 ABRTDRS 7 (CanLII)

(iii) with respect to a fixed term tenancy that does not contain a provision referred to in subclause (ii), the part of the tenancy that arises after the end of the fixed term tenancy, where the landlord and tenant by their conduct expressly or impliedly indicate that they intend that the tenancy be renewed or continued after the end of the fixed term tenancy

In other words, the *Residential Tenancies Act* operates to recognize that tenancies that continue beyond their expiration, will be recognized as periodic in nature, if the parties expressly or impliedly agree to continue the tenancy without a new end date in mind. This does not, in my view, preclude the ability of parties to agree to lengthen the duration of a fixed term tenancy with a new termination date.

In this case, the conduct of the parties, in my opinion, suggests that there was an express or implied agreement to extend the fixed term of the tenancy to August 31, 2024, rather than to create a new periodic tenancy.

I find that the Tenants verbally informed the Landlord on August 7, 2024, that they would be vacating the rental premises at the end of the month. I find that the Tenants followed up this verbal conversation with a text message on the same day, confirming that August would be the "last month" of the tenancy, to which the Landlord replied with "Okay". In contrast, the Landlord presented no compelling evidence to suggest that he ever misunderstood the Tenants' intentions to vacate on August 31, 2024. Instead, by replying with "okay", the Landlord appeared to accept the proposal of the Tenants without controversy. The natural implication of this exchange is that the parties had agreed to extend the term of the tenancy to August 31, 2024.

The Landlord is therefore not entitled to any rent from the Tenants for September 1 through September 13, 2024.

Conclusion

The Tenants are entitled to the full return of their security deposit, plus interest pursuant to Section 45(1) of the *Residential Tenancies Act*. The Tenants shall therefore have a judgment of $2,021.35 against the Landlord, plus their costs of filing the application in the amount of $75.00.

The Landlord's application is dismissed in its entirety.

J. Lambert
Tenancy Dispute Officer

Decisions of RTDRS Tenancy Dispute Officers are specific to the facts of each case and are not binding precedents.

2025 ABRTDRS 7 (CanLII)