

Introduction

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On April 15, 2024 the Landlord’s representative (the “Representative”) filed a *Landlord Application to Determine Dispute (Form 2(B))* (the “Application”) with the Residential Tenancy Office (the “Rental Office”). The Representative electronically served the Application to one of the Tenants. The Application was filed with the Rental Office for the following reason:
- 1) To make claim against the full amount of the security deposit and interest.
- [3] On April 24, 2024 the Representative amended the Application to include both Tenants. The Representative electronically served the amended application to the Tenants.
- [4] On April 30, 2024 the Rental Office provided the parties with a notice of a teleconference hearing (the “Notice of Hearing”) by e-mail.
- [5] On May 22, 2024 the Rental Office provided the parties with the evidence package (the “EP”) by e-mail. The EP contains 10-pages of documentary evidence submitted by the Landlord.
- [6] On May 28, 2024 at 1:00 p.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Representative participated in the hearing. The Tenants did not call into the hearing at the schedule time. At 1:10 p.m. the Rental Office attempted to contact the Tenants with the phone numbers in the Application. The Tenants could not be reached and a voicemail was left. The Rental Office also e-mailed the Tenants, with no response. The hearing proceeded in the Tenants’ absence.

Issue to be Decided

- i. Is the Landlord entitled to retain the security deposit?

Summary of the Evidence

- [7] The Rental Unit is a single-family dwelling.
- [8] The parties entered into a written, fixed-term tenancy agreement for the period of November 1, 2022 to October 31, 2023. The tenancy agreement continued as a month-to-month agreement. Rent was \$1,127.85 due on the first day of the month. On October 10, 2022 a \$1,095.00 security deposit was paid.

Landlord’s Evidence and Submissions

- [9] The Landlord submitted 10-pages of documents into evidence including: a copy of the tenancy agreement, proof of service, a copy of the Representative’s internal portal records, an invoice and a Maritime Electric bill.
- [10] On February 2, 2024 one of the Tenants vacated the Rental Unit with notice. The Representative stated that despite the tenant vacating, some of her personal belongings remained in the Rental Unit with the other tenant.
- [11] On March 1, 2024 the remaining tenant advised the Representative that he vacated the Rental Unit and left the Province. The Representative quoted the Tenant’s comments on page 11 of the EP:

"March 1, 2024 11:21 AM

Hello I needed to let you know that I am moved out and on my way to Ontario right now, I'm paying March rent even tho I'm gone already to let my ex have the month to clear out her belongings but I had to leave over night for family reasons. This is my last payment for rent."

- [12] The Representative submitted that the tenancy ended March 31, 2024. The Representative stated that throughout the month of March she attempted to contact the other tenant about her personal items left in the Rental Unit. On March 5, 2024 the other tenant agreed to remove her personal items from the Rental Unit.
- [13] The Representative stated that a lot of garbage was left in the Rental Unit and a lot of cleaning was required. The Representative stated that all the cleaning and garbage removal happened on April 1-2, 2024. The Representative stated that the invoice submitted into evidence has a clerical error. The correct date should be "April 10, 2024".
- [14] The Representative stated that photos of the Rental Unit were taken on April 1-2, 2024. However, the phone where the photos are stored crashed and the photographs were lost. The Representative stated that the Rental Unit was re-rented for May 1, 2024. The Representative stated that the Landlord is seeking to retain the security deposit and interest to cover the fees associated with cleaning and removing garbage from the Rental Unit. The Landlord is not seeking any rental arrears for April 2024. The Representative submitted that she is not seeking any additional costs, including the outstanding Maritime Electric bill for \$124.45.

Analysis

- [15] The Application is made in accordance with clause 75 of the Act and seeks to make a claim against the security deposit, pursuant to clause 40(1) of the Act. Clause 40(1) states:

40. Return of security deposit

(1) *Except as provided in subsection (2) or (3), within 15 days after the date the tenancy ends or is assigned, the landlord shall either*

- (a) issue payment, as provided in subsection (5), of any security deposit to the tenant with interest calculated in accordance with the regulations; or*
- (b) make an application to the Director under section 75 claiming against the security deposit.*

- [16] Further, clause 39(2) of the Act states:

39. Obligations on vacating

(2) *When a tenant vacates a rental unit, the tenant shall*

- (a) leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear; and*
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.*

- [17] The Landlord initiated the Application under the Act. The Landlord bears the onus of proving its claim on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear, convincing and cogent evidence to support the claim(s) and the value of the alleged damage(s).

Cleaning and Garbage removal in the amount of \$1,239.70

- [18] The Act requires a tenant to leave the rental unit reasonably clean. The direct testimony from the Representative, and the documentary evidence submitted establish that the Representative incurred significant costs for cleaning and removing garbage from the Rental Unit.
- [19] Despite the costs being above the amount of the security deposit, and there being a \$124.45 outstanding electricity bill, the Representative is only seeking to retain the security deposit. The Officer finds that the Landlord is entitled to claim the full amount of the security deposit and interest.

Conclusion

- [20] The Application is allowed. The Landlord is entitled to retain the security deposit and interest.
- [21] The accrued interest on the \$1,095.00 security deposit is \$38.28, being a total of \$1,133.28.
- [22] The Officer's calculations are as followed:

Item	Amount
Security deposit + accrued interest	\$1,133.28
Less cleaning & garbage removal	(\$1,133.28)
Amount Landlord shall retain	\$1,133.28

- [23] This Order will be served to the parties by e-mail.

IT IS THEREFORE ORDERED THAT

1. The Landlord shall retain the full amount of the security deposit and interest.

DATED at Charlottetown, Prince Edward Island, this 10th day of June, 2024.

(sgd.) Cody Burke
Cody Burke
Residential Tenancy Officer

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission by serving a Notice of Appeal with the Commission and every party to this Order within **20 days of this Order**. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.