

## Introduction

- [1] On March 15, 2024, the Landlords filed a *Landlord Application to Determine Dispute (Form 2(B))* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed to claim against the security deposit and for compensation above the security deposit, pursuant to the *Residential Tenancy Act* (the "Act").
- [2] On May 17, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). Two Landlords appeared representing the Landlords. The Tenant, a second tenant, and a representative for a third tenant participated in the hearing together to deal with separate applications with the same Landlords and to act as witnesses for each other. The other applications will be determined in separate orders.

## Issue to be Decided

- i. Are the Landlords entitled to retain the security deposit and to compensation above the security deposit?

## Summary of the Evidence

- [3] On January 1, 2024, the parties entered into a written, month-to-month tenancy agreement for the Rental Unit which consisted of a room rental and shared common spaces in a house (the "Residential Property"). Rent was \$550.00 per month and a security deposit of \$550.00 was paid. The Tenant vacated on February 29, 2024.

### Landlords' Evidence and Submissions

- [4] The Landlords submitted 34 pages of documents into evidence including messages between the parties, photographs of some common spaces in the property, and a photograph of a room.
- [5] The Landlords stated the Tenant's room and common spaces were not clean when the Tenant vacated. They stated the kitchen, sink, stove, fridge, living room, and toilet were left unclean. They stated it will cost \$500.00 for cleaning the three tenant's rooms and the common areas.
- [6] The Landlords stated there were damages to the common spaces of the Residential Property when the Tenant vacated. They stated the weather seal to the entrance door was broken and will cost \$200.00 to repair. They stated the pneumatic door for the kitchen and hall entrance is broken and will cost \$300.00 to repair. They stated the filter to the dryer is dirty and will cost \$150.00 to clean and repair. Garbage was put into the compost bin and will cost \$50.00 to take to the dump.
- [7] The Landlords stated that the two other tenants participating in the hearing vacated around the same time as the Tenant. They stated the cost for the cleaning and damages should be divided by three, as each tenant was responsible, so the Tenant and other two tenants should each be responsible for \$400.00. They stated there was a fourth tenant living in the Residential Property at the same time as the other three tenants and that individual is still living in the Residential Property.
- [8] The Landlords stated the middle support bar of the bedframe the Tenant was using is broken. They stated it will cost a minimum of \$100.00 to repair and that should be the responsibility of the Tenant.

**Tenant's Evidence and Submissions**

- [9] The three tenants collectively submitted into evidence: photographs of the Rental Unit, messages between the Landlords and tenants, written submissions, and three videos.
- [10] The Tenant stated the bedframe was squeaking when he moved in so it was likely already damaged. He stated the common areas were supposed to be cleaned by someone else and they were never cleaned. He stated he only used the washing machine and dryer two times before he vacated because they were purchased after he moved in.
- [11] The Tenant denied that he or the other two tenants caused any damages. The Tenant stated he cleaned his areas in the common spaces and his room before he vacated. He stated one tenant had vacated on February 10, he vacated on February 29, and another tenant vacated on March 2. A fourth tenant was also living in the Residential Property and that person remained in the property after they vacated.

**Post Hearing Evidence and Submissions**

- [12] The Officer requested that the Landlords submit a copy of the tenancy agreement and any receipts or invoices after the hearing. On June 3, 2024, the Landlords submitted a copy of a tenant application for one of the other tenants who participated in the hearing. They submitted receipts for 2 pneumatic door closers and a receipt for a weather strip door seal, totaling \$416.21. The Landlords submitted a receipt for cleaning from 8-5 on January 3, 2024, and 8-5 on March 3, 2024, at \$25.00 per hour, totaling \$517.00.
- [13] Copies of the documents were sent to the Tenant and other two tenants who participated in the hearing for any submissions and were asked to reply by June 5, 2024, at 5:00 pm. On June 6, 2024, one of the other tenants requested the date and time of the receipts for the door closers and door seal and the receipt number and vendor information for the cleaning receipt.
- [14] On June 10, 2024, the Rental Office sent the tenant's questions to the Landlords and the Landlords responded on June 11, 2024. The Landlords stated the receipts are from May 26, 2024, and they provided an email address for the cleaner. The Landlords' response was forwarded to all three tenants. No further submissions were requested or provided by the parties.

**Analysis**

- [15] The Application seeks to make a claim against the security deposit and for compensation above the security deposit. The Landlords initiated the Application and bear the onus of proving their claims on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear and convincing evidence to support the claims. The relevant law is as follows:

**28. Tenant responsible for undue damage**

- (4) *A tenant of a rental unit shall repair, in a good and professional manner, undue damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.*
- (5) *A tenant is not required to make repairs for reasonable wear and tear to the rental unit or common areas of the residential property.*

**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.*

**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.*

**Are the Landlords entitled to retain the security deposit and to compensation above the security deposit?**

- [16] The Landlords stated they have incurred \$1,200.00 in expenses for cleaning and repairs and the total should be divided between the Tenant and two other tenants, totaling \$400.00 each. The Landlords submitted one photograph of a bedroom and 11 photographs of the common spaces into evidence which are date stamped March 1, 2024. The photographs of the common spaces depict unclean appliances, dirty and broken dishes, damaged doors, and garbage.
- [17] The Officer finds that the Landlords have not provided sufficient evidence, such as affirmed witness testimony or inspection reports, to establish that the room in the submitted photograph is the Rental Unit or that the Rental Unit was left in a state below the standard of reasonably clean.
- [18] The Officer finds that the Landlords have not provided sufficient evidence, such as affirmed witness testimony or inspection reports, to establish that the Tenant caused the damage to the common spaces or bed frame, or that the Tenant left the common spaces in an unclean state. The evidence establishes that there was a fourth tenant living in the Residential Property and no submissions were provided by the Landlords establishing why this tenant was not responsible for part of the cleaning or damages.
- [19] The Officer finds that the Landlords have not established they are entitled to retain the security deposit or for compensation above the security deposit. The security deposit plus interest shall be returned to the Tenant.

**Conclusion**

- [20] The Application is denied.
- [21] The Landlords shall return the security deposit plus interest to the Tenant in the amount of \$555.75 by July 10, 2024.
- [22] This order will be emailed to the parties.

**IT IS THEREFORE ORDERED THAT**

- A. The Landlords shall return the security deposit plus interest to the Tenant in the amount of \$555.75 by July 10, 2024.

**DATED** at Charlottetown, Prince Edward Island, this 19th day of June, 2024.

(sgd.) Mitchell King

Mitchell King  
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.