

INTRODUCTION

- [1] On June 21, 2024 the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office (the "Rental Office") seeking a monetary order for double the security deposit.
- [2] On July 16, 2024 the Rental Office emailed the parties notice of a teleconference hearing scheduled for 9:00 a.m. on July 30, 2024.
- [3] On July 26, 2024 the Rental Office emailed the parties an evidence package.
- [4] On July 29, 2024 the Tenant text messaged the Landlord a copy of the notice of hearing.
- [5] On July 30, 2024 at 9:00 a.m. the Tenant and the Tenant's witness joined a teleconference hearing before the Residential Tenancy Officer (the "Officer") for determination of the Application. The Officer telephoned the Landlord but was unable to connect. The hearing was adjourned to 12:00 noon on August 6, 2024.
- [6] On July 30, 2024 the Rental Office emailed the parties notice of a teleconference hearing rescheduled for 12:00 noon on August 6, 2024.
- [7] On July 31, 2024 the Tenant text messaged the Landlord a copy of rescheduled notice of hearing.
- [8] On August 6, 2024 the Tenant joined the teleconference hearing before the Officer. The Officer telephoned the Landlord but was unable to connect. The hearing proceeded in the absence of the Landlord.

ISSUE

Must the Landlord pay double the security deposit to the Tenant?

SUMMARY OF EVIDENCE

- [9] The Tenant's evidence is summarized as follows. The Unit is a two-bedroom, one-bathroom apartment.
- [10] The Landlord and the Tenant entered into a written, fixed term, sublet tenancy agreement for the period of October 1, 2023 to April 30, 2024. The term was extended to May 30, 2024. Rent in the amount of \$1,430.00 was due each month and a \$1,430.00 security deposit was paid on September 26, 2023. The tenancy ended on May 30, 2024 by mutual agreement.
- [11] The Tenant submitted into evidence correspondence between the parties around the time the tenancy ended.
- [12] The Landlord has not returned any of the security deposit funds. The Landlord has not served the Tenant with any Rental Office application seeking to retain the security deposit.

ANALYSIS

- [13] For the reasons below, the Officer finds that the Landlord must pay the Tenant double the security deposit plus interest on the original security deposit.
- [14] Section 40 of the *Residential Tenancy Act* (the "Act") addresses the retention and return of a security deposit, stating in part as follows:

(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.*

(2) A landlord may retain from a security deposit an amount that

- (a) the Director has previously ordered the tenant to pay to the landlord; and*
- (b) remains unpaid at the end of the tenancy.*

(3) A landlord may retain an amount from a security deposit if

- (a) at the end of a tenancy, the tenant agrees in writing that the landlord may retain the amount to pay a liability or obligation of the tenant; or*
- (b) after the end of the tenancy, the Director orders that the landlord may retain the amount.*

(4) Where a landlord does not comply with this section, the landlord

- (a) shall not make a claim against the security deposit; and*
- (b) shall pay the tenant double the amount of the security deposit.*

- [15] The evidence establishes that the tenancy agreement ended on May 30, 2024. The Landlord did not return the security deposit or file an application with the Rental Office to retain the security deposit within the fifteen-day timeline (by June 14, 2024). There are no earlier Rental Office decisions authorizing the Landlord to retain the security deposit. The parties did not come to a written agreement that the Landlord could retain the security deposit. As a result, the Landlord must pay the Tenant double the security deposit plus interest on the original security deposit in accordance with subsection 40(4).

CONCLUSION

- [16] The Application is valid.

- [17] The Landlord must pay the Tenant double the security deposit plus interest on the original security deposit in the total amount of \$2,888.75 by the timeline below, calculated as follows:

Item	Amount
Security Deposit	\$1,430.00
Interest (26 SEP 2023 to 6 AUG 2024)	\$28.75
Security Deposit (Double Awarded)	\$1,430.00
Total	\$2,888.75

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$2,888.75 by August 26, 2024.

DATED at Charlottetown, Prince Edward Island, this 6th day of August, 2024.

(sgd.) Andrew Cudmore

Andrew Cudmore
Residential Tenancy Officer

NOTICE**Right to Appeal**

This Order can be appealed to the Island Regulatory and Appeals Commission (the “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.