

INTRODUCTION

- [1] The Tenant seeks a monetary order against the Landlord for the return of double his security deposit and a \$300.00 return of rent for April of 2024.

DISPOSITION

- [2] I find that the Tenant is entitled to the return of double his security deposit and a \$300.00 return of rent for April of 2024.

BACKGROUND

- [3] On April 1, 2024 the parties entered into an oral, month-to-month tenancy agreement. The Tenant subletted a room in the Unit from the Landlord. On April 2, 2024 the Tenant paid a \$400.00 security deposit to the Landlord. Rent was \$850.00 due on the first day of the month, which included utilities, laundry and internet.
- [4] On April 4, 2024 the owner of the Unit served the Landlord and all occupants with a *Form 4(A) Eviction Notice* for subletting without consent (the "Notice").
- [5] On April 30, 2024 the Tenant vacated the Unit due to the Notice.
- [6] On June 10, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application seeks a return of double the security deposit and a return of rent. On June 13, 2024 the Tenant emailed the Application to the Landlord. On August 5, 2024 the Tenant amended the Application. On August 9, 2024 the Tenant emailed the amended Application to the Landlord.
- [7] On August 20, 2024 the Rental Office emailed the parties notice of a teleconference hearing scheduled for September 17, 2024, along with a copy of the Application.
- [8] On September 13, 2024 the Rental Office emailed the parties an evidence package.
- [9] On September 17, 2024 a teleconference hearing was scheduled, however, neither party called into the teleconference. The Rental Office could not reach either party by the contact information provided. The teleconference hearing was adjourned.
- [10] On September 19, 2024 the Rental Office emailed the parties a new notice of teleconference hearing scheduled for September 24, 2024.
- [11] On September 24, 2024 a teleconference hearing was scheduled, however, neither party called into the teleconference. The Rental Office could not reach either party by the contact information provided. The teleconference hearing was adjourned once more.
- [12] On October 4, 2024 the Rental Office sent a new notice of teleconference hearing for October 8, 2024.
- [13] On October 8, 2024 the Tenant participated in the hearing for determination of the Application. The Landlord did not call into the hearing. The hearing was delayed for ten minutes and the Rental Office tried to contact the Landlord with the contact information provided. The Landlord could not be reached and the hearing proceeded in the Landlord's absence.

ISSUES

- A. Is the Tenant entitled to a return of double the security deposit?
B. Is the Tenant entitled to a return of rent?

ANALYSIS**Is the Tenant entitled to a return of double the security deposit?**

- [14] For the reasons below, I find that the Tenant is entitled to a return of double the security deposit.
- [15] The Tenant stated that the sublet was for a room in the Unit, however, the property owner served the Notice because the Landlord did not have consent to sublet the Unit. The Tenant stated that he vacated the Unit on April 30, 2024.
- [16] The Tenant stated that the Landlord told him by text message that he would return his security deposit. The Tenant stated that the Landlord never returned his security deposit, never gave him any documents from the Rental Office, and has blocked his telephone number.
- [17] Section 40 of the *Residential Tenancy Act* (or 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.*

- [18] The evidence establishes that the tenancy agreement ended on April 30, 2024, when the Tenant vacated the Unit. However, the Landlord did not return the Tenant's \$400.00 security deposit within the fifteen-day deadline, and did not file an application with the Rental Office to retain the security deposit within the fifteen-day timeline.
- [19] Further, the evidence does not establish that the Landlord was exempted from the subsection 40(1) requirements. As a result, the Landlord must pay the Tenant double the security deposit, plus interest on the security deposit in accordance with subsection 40(4) of the Act, as calculated below.
- [20] The Landlord must pay the Tenant \$804.67 by the timeline below.

Is the Tenant entitled to a return of rent?

- [21] For the reasons below, I find that the Tenant is entitled to a return of rent.
- [22] The Application is allowed.

[23] The Tenant stated that the tenancy agreement included utilities, laundry and internet. However, there was no laundry and the internet was not connected when the Tenant moved into the Unit. The Tenant stated that he paid April 2024 rent in full, but was not provided the includes services. The Tenant stated that he is seeking a \$300.00 return of rent for the failure to provide these services.

[24] Subsection 21(1) of the Act states:

- (1) *A landlord shall not terminate or restrict a service or facility if*
 - (a) *the service or facility is reasonably related to the tenant's use and enjoyment of the rental unit as living accommodation; or*
 - (b) *the service or facility is a term of the tenancy agreement.*

[25] I have reviewed the documentary evidence, particularly the text message correspondence between the Landlord and the Tenant, along with the undisputed testimony from the Tenant. I find that the Landlord did not provide the includes services or facilities in the tenancy agreement. Therefore, the Tenant is entitled to a return of rent for the month of April 2024, in the amount of \$300.00.

Tenancy Agreement Form

[26] Since April 8, 2023 landlords (including landlords by sublet) on Prince Edward Island have been required to prepare a written tenancy agreement containing specific information. Subsections 11(1) and (2) of the Act state:

- (1) *A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*
- (2) *The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*
 - (a) *the provisions set out in Division 4;*
 - (b) *the correct legal names of the landlord and tenant;*
 - (c) *the address of the rental unit;*
 - (d) *the date the tenancy agreement is entered into;*
 - (e) *the address for service and telephone number of the landlord, or the landlord's agent, and the tenant;*
 - (f) *the services and facilities included in the rent;*
 - (g) *the amount of rent that was charged, and the services and facilities that were provided, to the previous tenant of the rental unit, unless there was no previous tenant;*
 - (h) *the name and contact information of any person the tenant is to contact for emergency repairs; and*
 - (i) *the agreed terms in respect of*
 - (i) *the date on which the tenancy starts,*
 - (ii) *if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis,*
 - (iii) *if the tenancy is a fixed-term tenancy, the date on which the term ends,*
 - (iv) *the amount of rent payable for a specified period,*
 - (v) *the day on which the rent is due and the frequency of payment, and*
 - (vi) *the amount of any security deposit and the date the security deposit was or is required to be paid.*

[27] The Landlord must comply with these requirements in the Act and prepare written tenancy agreements. The standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office’s website.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$1,104.67 by October 30, 2024.

DATED at Charlottetown, Prince Edward Island, this 9th day of October, 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 (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.