

PRELIMINARY MATTER

- [1] The Landlord named two tenants (“N” and “T”) in the *Form 2 (B) Landlord Application to Determine Dispute* (the “Application”). T submitted documentary evidence requesting that she be removed from the Application.
- [2] At the hearing, the Landlord agreed to remove T from the Application. T participated at the hearing as a witness for the Landlord. The Landlord also wanted to amend the Application to reduce the total monetary claim to \$4,141.00

INTRODUCTION

- [3] The Landlord seeks to retain the Tenant’s security deposit plus interest, totaling \$1,787.50, and a monetary Order for compensation exceeding the security deposit in the amount of \$2,353.50.
- [4] The Landlord also seeks an order to dispose of the personal property left behind by the Tenant at the Unit.

DISPOSITION

- [5] I find that the Landlord may retain the Tenant’s security deposit plus interest for damage and cleaning in the total amount of \$1,787.50.
- [6] I find that the Tenant must pay the Landlord additional compensation in the total amount of \$2,353.50.
- [7] I find that the Landlord may dispose of the personal property contained in the Inventory List through the solid waste disposal system on or after November 23, 2024.

BACKGROUND

- [8] On November 22, 2023 the parties entered into a written, fixed-term tenancy agreement for the period of November 27, 2023 to October 27, 2024. A \$1,750.00 security deposit was paid. Rent was \$1,800.00 due on the 27th day of the month.
- [9] On August 27, 2024 the Landlord served to the Tenant electronically a *Form 4 (A) Eviction Notice* (the “Notice”) for non-payment of rent, damage and behaviour effective September 15, 2024.
- [10] On September 10, 2024 the Landlord filed the Application with the Residential Tenancy Office (the “Rental Office”). The Application seeks to retain the Tenant’s security deposit, receive compensation exceeding the security deposit and seeks to dispose of the personal property left behind by the Tenant at the Unit.
- [11] On September 12, 2024 the Application was hand delivered to the Tenant by a process server.
- [12] On September 27, 2024 the Rental Office emailed the Landlord notice of a teleconference hearing (the “Notice of Hearing”).
- [13] On October 2, 2024 the Notice of Hearing was hand delivered to the Tenant by a process server.
- [14] On October 9, 2024 the Rental Office emailed the Landlord an evidence package (the “Evidence Package”).
- [15] On October 11, 2024 the Evidence Package, along with a letter from the Rental Office, was hand delivered to the Tenant by a process server.

- [16] On October 17, 2024, the Landlord and T participated in the hearing. The Tenant did not call into the hearing. I delayed the hearing temporarily and contacted the Tenant by telephone. The Tenant stated that he did receive the Application, the Notice of Hearing, and the Evidence Package.
- [17] The Tenant asked if it was mandatory to participate in the hearing. I informed the Tenant it was not mandatory, but I explained the nature of the Application and that he may want to provide oral evidence at the hearing. The Tenant decided not to participate in the hearing and confirmed that T was not representing him. The hearing proceeded in the Tenant's absence.

ISSUES

1. Is the Landlord permitted to retain the Tenant's security deposit and interest?
2. Is the Landlord permitted compensation exceeding the security deposit?
3. Is the Landlord authorized to dispose of the personal property at the Unit left behind by the Tenant?

ANALYSIS

1. Is the Landlord permitted to retain the Tenant's security deposit and interest?

[18] For the reasons below, I find that the Landlord may retain the Tenant's security deposit plus interest for damage and cleaning in the total amount of \$1,787.50.

[19] Clause 39(2)(a) of the *Residential Tenancy Act* (or the "Act") states:

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...

- [20] The Landlord stated that the Tenant lived in the Unit with two co-tenants since November of 2020. The tenancy ended in November of 2021 and the two co-tenants vacated the Unit. During the move-out inspection there was no damage to the Unit, apart from a small dent in the refrigerator door and a Venmar switch that had been damaged. The security deposit for that tenancy was returned.
- [21] The Landlord stated that he entered into a new tenancy agreement with the Tenant and T. The Landlord stated that he was not aware that T vacated the Unit in March of 2024. The Landlord stated that he did not think the Unit was damaged or unclean prior to March of 2024. The Landlord stated that he does not hold T responsible for the condition of the Unit at the end of the tenancy.
- [22] On July 25, 2024 the Tenant orally informed the Landlord that he intended to vacate the Unit. The parties agreed to a move-out inspection of the Unit for August 4, 2024. The Tenant requested a delay of the inspection and the inspection was rescheduled for August 11, 2024.
- [23] The Landlord stated that he arrived to the Unit for the scheduled inspection. The Landlord stated that he observed the garage door of the Unit was wide open. The Landlord stated that he knocked on the door, but the Tenant was not at the Unit. The Landlord stated that the smell and condition of the Unit was very bad.
- [24] The Landlord stated that he secured the Unit and tried contacting the Tenant without response. The Landlord stated that he contacted his insurance company to inspect the Unit for damage with 24-hour notice.
- [25] The Landlord stated that he was not sure if the Tenant was still living in the Unit and on August 27, 2024, he served the Tenant the Notice electronically.

- [26] The Landlord stated that there were two insurance claims, in a total amount of \$23,544.33. The Landlord stated that the insurance covered the damage and rental arrears, but there were two \$1,000.00 deductibles. The Landlord stated that he is seeking to retain the security deposit to assist in covering the \$2,000.00 deductibles.
- [27] The Landlord submitted numerous photographs of the Unit and a 360-degree walkthrough video created by Service Master PEI (dated August 11, 2024).
- [28] T stated that she cleaned the Unit regularly and it was not in the condition the photographs show in March of 2024.
- [29] I have reviewed the evidence provided, particularly the photographs, insurance report and the undisputed testimony from the Landlord and T. I find that the Landlord may retain the Tenant's security deposit and interest to cover a portion of the \$2,000.00 insurance deductibles for damage to the Unit. The claim is allowed, in the total amount of \$1,787.50.

2. Is the Landlord permitted compensation exceeding the security deposit?

- [30] For the reasons below, I find that the Tenant must pay the Landlord compensation exceeding the security deposit and interest in the total amount of \$2,353.50.
- [31] I have found that the Landlord is entitled to \$2,000.00 in compensation for the insurance deductibles for damage to the Unit. Deducting the \$1,787.50 security deposit and interest from this amount, the Tenant must pay the Landlord \$212.50 from the remaining balance.
- [32] Further, the Landlord is seeking \$1,541.00 for labour and time to clean, coordinate with the insurance company, photograph and catalog the evidence for the proceeding and loss work and vacation time. The Landlord stated that he spent 33.5 hours at his hourly rate to come to this dollar amount.
- [33] After reviewing the evidence, I find that the Landlord is entitled to compensation for his own time and labour as a result of the condition of the Unit left by the Tenant. This claim is allowed, in the total amount of \$1,541.00.
- [34] The Landlord is seeking \$600.00 for the fee to rent a dumpster. The Landlord stated that he has not ordered the dumpster yet, as he is awaiting the outcome of this decision. The Landlord stated that the \$600.00 is an estimate based on his own research and that the dumpster size is based on the total weight.
- [35] After reviewing the evidence, particularly the photographs, and hearing the undisputed testimony from the Landlord, I find that this is a reasonable market price to rent a dumpster to remove the disposed personal property left by the Tenant, and to be used for the repairs required for the Unit.
- [36] The claim is allowed; the Tenant must pay the Landlord \$2,353.50, by the timeline below. The calculations are as follows:
- \$212.50 remaining on the deductible;
 - \$1,541.00 for labour and the Landlord's time; and
 - \$600.00 for dumpster rental.

[37] After adjusting for the security deposit and interest, the total compensation is calculated as follows:

Item	Amount
Total Amount Awarded to Landlord	\$4,141.00
Security Deposit	(\$1,750.00)
Interest (22 NOV 2023 to 30 OCT 2024)	(\$37.50)
Total	\$2,353.50

3. Is the Landlord authorized to dispose of the personal property at the Unit left behind by the Tenant?

[38] Subsections 43(1) and (7) of the Act state:

- (1) *A tenant is not entitled to leave the tenant's personal property in the rental unit after the tenancy agreement is terminated.*
- (7) *The Director may, on application by a landlord under section 75, authorize the landlord to dispose of personal property referred to in subsection (2) prior to the end of the applicable storage period required under subsection (4) where the Director believes on reasonable grounds that*
 - (a) *the personal property has no monetary value;*
 - (b) *the cost of removing, storing or selling the personal property would be more than the proceeds of the sale; or*
 - (c) *the storage of the personal property would be unsanitary or unsafe.*

[39] Included in the Evidence Package was a list (the "Inventory List") and photographs of the personal property left behind by the Tenant at the Unit.

[40] T stated that she wanted some items that belong to her son. The Landlord stated that he would accommodate T and make available whatever items she wanted for her son. The items mentioned by T were not included in the Inventory List.

[41] I have reviewed the Inventory List, photographs and the undisputed testimony provided by the Landlord and T. I find that the personal property remaining in the Unit either has no monetary value or the cost of removing, storing or selling the property would be more than the proceeds of the sale.

[42] As a result, this claim for disposal of the personal property in the Inventory List is approved.

[43] **As the Tenant may appeal this Order within 23 days, due to service by mail, I find that the Landlord may dispose of the personal property contained in the Inventory List through the solid waste disposal system on or after November 23, 2024.**

CONCLUSION

[44] The Application is allowed.

[45] The Landlord may retain the security deposit and interest, in the total amount of \$1,787.50.

[46] The Tenant must pay the Landlord \$2,353.50 by November 23, 2024.

[47] The Landlord may dispose of the personal property contained in the Inventory List through the solid waste disposal system on or after November 23, 2024.

IT IS THEREFORE ORDERED THAT

1. The Landlord may retain the security deposit and interest, in the total amount of \$1,787.50.
2. The Tenant must pay the Landlord \$2,353.50 by November 23, 2024.
3. The Landlord may dispose of the personal property contained in the Inventory List through the solid waste disposal system on or after November 23, 2024.

DATED at Charlottetown, Prince Edward Island, this 30th 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 **23 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.