

INTRODUCTION

- [1] The Tenant seeks a monetary Order against the Landlord for double the security deposit plus interest on the original security deposit.

DISPOSITION

- [2] I find that the Landlord is not required to pay the Tenant double the security deposit. The Landlord must pay the Tenant interest on the security deposit, in the amount of \$13.19.

BACKGROUND

- [3] On April 26, 2024 the parties entered into a written, fixed-term tenancy agreement for the period of May 1, 2024 to August 31, 2024. On April 26, 2024 the Tenant paid a \$1,500.00 security deposit to the Landlord. Rent in the amount of \$1,500.00 was due on the first day of the month.
- [4] On August 31, 2024 the tenancy ended and the Tenant vacated the Unit.
- [5] On September 16, 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 compensation for double the security deposit plus interest on the original security deposit. The Tenant emailed the Landlord a copy of the Application.
- [6] During the evening of September 16, 2024 the Landlord e-Transferred the Tenant \$1,500.00 in security deposit funds. The Tenant received the funds on September 16, 2024.
- [7] On September 27, 2024 the Rental Office emailed the parties notice of a teleconference hearing scheduled for October 29, 2024, along with a copy of the Application.
- [8] On October 25, 2024 the Rental Office emailed the parties an evidence package.
- [9] On October 29, 2024 the Tenant and the Landlord's representative (the "Representative") participated in a teleconference hearing for determination of the Application. The Tenant and the Representative confirmed that all of the documents they submitted to the Rental Office were included in the Evidence Package.

ISSUE

- A. Must the Landlord pay double the security deposit plus interest to the Tenant?

ANALYSIS

- [10] For the reasons below, I find that the Landlord is not required to pay the Tenant double the security deposit.
- [11] Section 40 of the *Residential Tenancy 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.

- [12] The parties agree that the tenancy agreement ended on August 31, 2024. The Landlord did not return any of the \$1,500.00 security deposit to the Tenant by Sunday, September 15, 2024. The Landlord did not file an application with the Rental Office to retain the security deposit by September 15, 2024.
- [13] On September 16, 2024 the Tenant received \$1,500.00 in security deposit funds from the Landlord after serving a copy of the Application to the Landlord.
- [14] In this case the fifteenth day after the tenancy ended was a Sunday. The *Residential Tenancy Act* must be interpreted in accordance with the *Interpretation Act*, which states as follows in subsection 33(6):
- A time limit for the doing of anything that falls or expires on a holiday is extended to include the next day that is not a holiday.*
- [15] Subsection 1(w) of the Schedule to the *Interpretation Act* defines “holiday” to include a Sunday. Therefore, the last day for the Landlord to pay the Tenant the security deposit was extended by operation of law from Sunday, September 15, 2024 to Monday, September 16, 2024. The parties agree that the security deposit was in fact received by the Tenant on September 16, 2024.
- [16] The *Residential Tenancy Act* and the *Interpretation Act* do not require that the security deposit be paid by a certain time of day.
- [17] For these reasons, the Landlord did in fact comply with section 40 by paying the Tenant the security deposit on Monday, September 16, 2024. The Landlord is not required to pay the Tenant double the security deposit.
- [18] The security deposit accumulated interest from April 26, 2024 to September 16, 2024, in the amount of \$13.19, which the Landlord must pay to the Tenant.
- [19] I note that the Landlord must calculate interest on all security deposits returned to tenants or retained by the Landlord. The Rental Office has an interest calculator located on its website:

<https://peirentaloffice.ca/security-deposits/interest-rate-calculator/>

Tenancy Agreement Form

- [20] The *Residential Tenancy Act* has been in force since April 8, 2023 and the tenancy agreement commenced on May 1, 2024. The Landlord must use tenancy agreement forms that comply with the current legislation.

[21] In particular, subsections 11(1) and (2) include all of the following requirements:

- (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.*

[22] I also note that a tenancy agreement cannot permit a landlord to automatically keep all or part of a security deposit at the end of the tenancy agreement (subsection 15(c) of the *Residential Tenancy Act*).

[23] In conclusion, the Landlord must only pay security deposit interest to the Tenant on the terms stated below.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$13.19 by November 25, 2024.

DATED at Charlottetown, Prince Edward Island, this 31st day of October, 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.