

INTRODUCTION

- [1] The Tenant seeks compensation from the Landlords for double the security deposit and moving expenses. The Landlords seek compensation from the Tenant for damage, cleaning and other expenses.

DISPOSITION

- [2] I find that the Landlords must compensate the Tenant double the security deposit plus interest on the original security deposit, in the amount of \$2,019.38. The Landlords must compensate the Tenant for moving expenses, in the amount of \$699.56. The Tenant must compensate the Landlords for damage, cleaning and other expenses, in the amount of \$832.05.
- [3] There is a net amount payable by the Landlords to the Tenant, in the amount of \$1,886.89.

BACKGROUND

- [4] The Unit is a three-bedroom, two-bathroom unit in a duplex building that the Landlords have owned since 2018 or 2019.
- [5] The parties entered into a tenancy agreement that commenced on or about November 30, 2023. Rent in the amount of \$1,450.00 was due on the first day of the month and a \$1,000.00 security deposit was paid in three installments (\$500.00 on November 30, 2023, \$150.00 on December 30, 2023 and \$350.00 on February 3, 2024).
- [6] On March 31, 2024 the Landlords served the Tenant with a *Form 4 (B) Eviction Notice* (the "Notice") for possession of the Unit by a family member of the Landlords. The effective date in the Notice was May 31, 2024 but the parties later understood that the actual effective date was July 31, 2024.
- [7] On August 4, 2024 the Tenant vacated the Unit.
- [8] On September 10, 2024 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant's Application") with the Residential Tenancy Office (the "Rental Office") seeking compensation for double the \$1,000.00 security deposit retained by the Landlord and compensation for moving expenses.
- [9] On September 20, 2024 the Landlords filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlords' Application") with the Rental Office claiming for furnace oil, missing curtain rods and blinds, unpaid rent, cleaning and painting.
- [10] The Tenant's Application and the Landlords' Application are collectively referred to as the "Applications."
- [11] On September 24, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 15, 2024, along with a copy of the Applications.
- [12] On October 9, 2024 the Rental Office emailed the parties a 69-page PDF document (the "Evidence Package").
- [13] On October 15, 2024 the Tenant and the Landlords participated in a teleconference hearing. The parties confirmed that they received the Evidence Package and that all the documents submitted to the Rental Office were included. The parties were permitted to submit additional documents after the hearing.

ISSUES

- A. Must the Landlords compensate the Tenant double the security deposit plus interest?
- B. Must the Landlords compensate the Tenant for moving expenses?
- C. Must the Tenant compensate the Landlords for furnace oil, curtain rods, blinds, four days' rent, cleaning and painting?

ANALYSIS**A. Must the Landlords compensate the Tenant double the security deposit plus interest?**

[14] For the reasons below, I find that the Landlords must compensate the Tenant for double the security deposit plus interest.

[15] 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.*

[16] The evidence establishes that the Tenant vacated the Unit on or about August 4, 2024. The Landlords did not return any of the \$1,000.00 security deposit to the Tenant within 15 days (by August 19, 2024). The Landlords did not file an application with the Rental Office to retain the security deposit within fifteen days.

[17] There are no earlier Rental Office decisions authorizing the Landlords to retain the Tenant's security deposit.

[18] At the end of the tenancy the parties did not enter into a written agreement permitting the Landlords to retain the security deposit, as provided in clause 40(3)(a). This requirement in the *Act* for written agreement helps avoid the uncertainty of oral agreements.

[19] The Landlords' evidence is that there was originally an oral agreement with the Tenant for the Landlords to retain \$200.00 of the security deposit for damage. However, the Landlords discovered

additional damage. The Landlords stated that there was a later oral agreement on August 6, 2024 made by the Tenant and the Landlords' representative ("DM") for the Landlords to retain the entire security deposit.

- [20] The Tenant's evidence is that there was originally an oral agreement for the Landlords to retain \$250.00 of the security deposit and the Tenant never agreed to the Landlords retaining the entire security deposit. The Tenant provided DM with moving expense receipts and was advised by DM that there would be no payment to the Tenant until the expenses were approved by IRAC.
- [21] On the evidence presented I am not satisfied that there was in fact an oral agreement between the parties. A key part of any agreement would be the amount of the security deposit retained. I cannot find that the parties agreed to retention of \$200.00 or \$250.00 of the security deposit when the Landlords in fact retained the entire security deposit. The parties provided conflicting evidence regarding an oral agreement for retention of the entire security deposit. The Landlords ought to have put any oral agreement into writing, as required by clause 40(3)(a), which could have avoided uncertainty regarding the terms of any agreement.
- [22] As a result, I find that the Landlords did not comply with the section 40 requirements for retaining a security deposit. Therefore, by operation of law, the Landlords must compensate the Tenant double the security deposit plus interest on the original security deposit in accordance with subsection 40(4). The total amount payable is \$2,019.38, calculated as follows:

Item	Amount
Security Deposit	\$1,000.00
Interest on \$500.00 (30 NOV 2023 to 4 NOV 2024)	\$10.59
Interest on \$150.00 (30 DEC 2023 to 4 NOV 2024)	\$2.87
Interest on \$350.00 (3 FEB 2024 to 4 NOV 2024)	\$5.92
Security Deposit (Double Awarded)	\$1,000.00
Total	\$2,019.38

B. Must the Landlords compensate the Tenant for moving expenses?

- [23] Section 72 of the Act provides for the following compensation when a tenancy agreement ends for landlord's occupation of a rental unit:

A landlord shall compensate a tenant who receives a notice of termination of a tenancy under section 62 or 63 in an amount equal to one month's rent plus reasonable moving expenses in accordance with the regulations or offer the tenant another rental unit acceptable to the tenant.

- [24] Subsection 6(1) of the *Residential Tenancy Regulations* states:

For the purposes of subsections 70(1) and (2) and sections 71 and 72 of the Act, reasonable moving expenses are the lesser of the actual expenses of the move or one month's rent.

- [25] The Landlords compensated the Tenant for one month's rent.

[26] At the hearing the Landlords agreed to the following expenses, in the total amount of \$305.39:

Item	Amount
Cerettis pack of water	\$8.39
Cerettis ice	\$3.75
U-Haul truck rental	\$215.43
Canada Post mail forwarding	\$72.45
Walmart pack of water (3 AUG 2024)	\$5.37
Total	\$305.39

[27] The Landlords disputed the following expenses, in the total amount of \$900.39:

Item	Amount
Cerettis PowerAde	\$25.55
Cerettis cigars	\$18.59
Little Caesars Pizza	\$83.88
Walmart pack tape (1 AUG 2024)	\$27.55
Walmart Monster Zero (3 AUG 2024)	\$19.17
Dollarama heavy duty ratchets, food & bag	\$36.84
Esso fuel (2 AUG 2024)	\$130.06
Esso fuel (\$60.02) & food (\$8.73; 3 AUG 2024)	\$68.75
City of Summerside utilities deposit	\$490.00
Total	\$900.39

Tape, Ratchets, Drinks, Food & Cigars

[28] I am satisfied that the pack tape, heavy duty ratchets and the bag were reasonable moving expenses.

[29] The Tenant stated that he had originally planned on hiring a moving company.

[30] The Tenant stated that Landlords told the Tenant that the one-month's rent and moving expenses compensation would be paid before the Tenant moved. The Tenant had a moving company lined up with an estimated cost of \$800.00 to \$850.00. Close to the move out date the Tenant was advised by DM that the Landlords would not pay for the moving expenses until receipts were provided. The Tenant cancelled the moving company because he did not have funds available for this service.

[31] In the absence of a moving company, the Tenant called a number of people to help with the move. The Tenant described some of the moving expenses claimed as "*bribes*" or compensation to get help moving. The Tenant did not pay an hourly rate or cash for the people who helped. The Tenant and his family completed a lot of the moving work. The total hours worked for everyone involved in the move was approximately 80 hours.

[32] The Landlords dispute that the drinks, food and cigars are moving expenses.

[33] I note that the total drinks, food and cigars cost claimed by the Tenant totals about \$210.00. The Tenant did not pay or charge an hourly dollar amount for the work that was completed by the Tenant, his family and the other people that assisted with the move.

[34] I am satisfied that the \$210.00 in drinks, food and cigars was essentially compensation for the labour involved in moving the Tenant and his family from the Unit to their new rental. Therefore, I find that all the drinks, food, and cigars costs are reasonable moving expenses.

- [35] I note that the \$210.00 expense amounts to about 14 hours of work at the minimum wage applicable at that time (\$15.40). The Tenant's evidence was that approximately 80 hours' work was completed for the move. Therefore, on the evidence presented, the drinks, food and cigars expenses are significantly lower than the cost would have been compared to an hourly, minimum wage rate.
- [36] The total claim established in this section for tape, ratchets, drinks, food and cigars is \$237.82 for both agreed and disputed items.

Fuel Expenses

- [37] The Tenant stated that on August 2, 2024 the Tenant filled up his van with gas, at a cost of \$130.06. The evidence presented establishes that a significant amount of driving was necessary for the Tenant to move 27 kilometers from the Unit to the new rental. The Tenant's receipts also show that a significant number of trips were necessary to purchase items related to the move. However, it is unclear how much fuel remained after the move was completed. Therefore, I find that only half of this \$130.06 fuel cost has been established as a moving expense, in the amount of \$65.03.
- [38] The Tenant stated that he rented a U-Haul box truck for the move to the new rental unit. The Tenant made two or three trips between the units with the U-Haul truck. The rental cost was \$215.43. The truck's fuel tank was full when the Tenant picked it up and the Tenant refilled the truck before it was returned, at a cost of \$60.02. The fuel receipt is dated 6:41 p.m. on August 3, 2024.
- [39] The Landlords questioned this fuel expense because the truck rental period in the receipt was from 8:02 a.m. to 4:00 p.m. on August 3, 2024.
- [40] I note that the U-Haul receipt is dated 6:52 p.m. on August 3, 2024.
- [41] The Tenant stated that the truck was returned after 4:00 p.m. on August 3, 2024, however, the Tenant was not charged for additional time.
- [42] I am satisfied that the Tenant did pay \$60.02 for fuel to drive the U-Haul truck during the move to the new unit. I note that the U-Haul receipt time of 6:52 p.m. is consistent with the Tenant's timeline of the truck rental.

City of Summerside Deposits

- [43] The Tenant claims as a moving expense \$240.00 and \$250.00 deposits paid to the City of Summerside for his new unit regarding water, sewer and electricity services. The Tenant also submitted into evidence a first statement from the City of Summerside dated September 13, 2024 which shows a \$42.44 electric service call fee (\$48.81 including HST).
- [44] The Landlords dispute this claim. The Landlords argue that the deposits are completely refundable after one year as long as the Tenant makes the required payments.
- [45] I note that the September 13, 2024 statement shows the total deposit plus accumulated interest (\$491.08). These deposits do not appear to be an expense that was used up. Instead, it appears that these funds remain and are ultimately for the Tenant's benefit in the future. Therefore, these security deposits cannot be considered a moving expense.
- [46] However, the evidence establishes that the Tenant did incur a \$48.81 electric service call fee on the first City of Summerside Statement, which is a reasonable moving expense.

Summary of Tenant's Established Moving Expenses

- [47] In total, the Tenant has established moving expenses in the amount of \$699.56 calculated as follows:

Item	Amount
U-Haul truck rental	\$215.43
Canada Post mail forwarding	\$72.45
Tape, ratchets, drinks, food & cigars	\$237.82
Esso fuel for van	\$65.03
Esso fuel for U-Haul truck	\$60.02
City of Summerside service call fee	\$48.81
Total	\$699.56

C. Must the Tenant compensate the Landlords for furnace oil, curtain rods, blinds, four days' rent, cleaning and painting?

- [48] The particulars of the Landlords' Application include the item: "*200 damage deposit*." As noted above, I found that the parties have not established an oral agreement for retention of part or all of the security deposit. Therefore, the "*200 damage deposit*" item is not a valid claim.

Furnace Oil

- [49] The Landlords stated that there was an oral agreement with the Tenant that the Landlords would fill the furnace oil tank half full at the beginning of the tenancy. The Tenant was responsible for filling the tank half full at the end of the tenancy but did not fulfill this obligation. The Landlords had not refilled the tank as of the hearing date.
- [50] After the hearing the Landlords submitted a furnace oil invoice dated December 8, 2023 in the amount of \$493.54. The Landlords argue that at the time of this fuel delivery the tank was not completely empty and this delivery brought the tank to half full.
- [51] At the hearing the Tenant stated that he agreed to put furnace oil in the tank upon receipt of the security deposit. The Tenant stated that he asked for proof from DM that the furnace oil tank was half full but no proof was provided. The Tenant believed that the tank was only a quarter full at the beginning of the tenancy and the Tenant only agreed to \$275.00 of the Landlords' claim.
- [52] I am satisfied that the Landlords had furnace oil delivered to the Unit near the beginning of the tenancy, at a cost of \$493.54. I am also satisfied that the tank was empty at the end of the tenancy. The Landlords have established a furnace oil claim of \$493.54. I find that there is insufficient evidence to support a larger claim regarding any furnace oil that was in the tank at the time of the December 8, 2023 delivery.

Curtain Rods and Blinds

- [53] At the hearing the Tenant agreed to pay for three curtain rods the Landlords purchased from Giant Tiger, at a cost of \$40.25.
- [54] The Landlords believe that there was also a \$23.00 cost for replacing blinds in the Unit.
- [55] The Tenant denied responsibility for any missing blinds in the Unit and stated that the blinds remained in the Unit at the end of the tenancy.

- [56] I do not have sufficient evidence to find that the Tenant is responsible for a blinds replacement cost. There is insufficient evidence to establish that the blinds were in fact installed at the beginning of the tenancy and missing at the end of the tenancy.
- [57] I note that the parties did not complete written move-in or move-out condition inspection reports as required by sections 18 and 38 of the Act. These types of reports can assist in the resolution of disputes and provide relevant evidence for Rental Office proceedings.

Rent – August 1 to 4, 2024

- [58] The Tenant disputes the Landlords' claim for four days rent. When the Tenant asked for additional time to move out the Landlords said that was fine and there was no request for more rent.
- [59] The Landlords stated that they did not initially think about charging four days rent when things with the Tenant were going well. However, things then went poorly and they decided they would in fact charge this rent.
- [60] On the evidence presented, I am not satisfied that the Landlords originally intended to charge rent for the period of August 1 to 4, 2024. Therefore, I find that this rent owing claim is denied.
- [61] I also note that the Landlords were required to compensate the Tenant for moving expenses by July 31, 2024.
- [62] The timeline for section 72 moving expense compensation is provided in section 73, which states as follows:

Where the landlord is required to compensate a tenant under section 70, 71 or 72, the landlord shall compensate the tenant no later than the termination date specified in the notice of termination of the tenancy given by the landlord.

- [63] If the Tenant had funds available to pay for a moving company, then the Tenant may have been able to move out before August 4, 2024. The Tenant cancelled the moving company due to insufficient funds. I note that as of the hearing date, being almost 2.5 months after the Tenant moved out, the Landlords still have not compensated the Tenant for any moving expenses.

Cleaning

- [64] The Landlords stated that the Tenant did not leave the Unit in the same condition as when he moved in. The Tenant did not clean the stove and the fridge. The Landlords submitted into evidence photographs of the Unit taken near the end of the tenancy. Time was also spent attempting to remove black markings in the Unit.
- [65] The Landlords submitted into evidence an invoice with a labour cost of 24 hours at \$25.00 per hour, for cleaning the Unit. The total cleaning cost was \$690.00, including HST.
- [66] The Canadian Tire pristine (steam) cleaning was for the rug going up the stairs. The Landlords stated that the rug was black at the end of the tenancy. The Landlords considered getting a new rug but it was going to cost \$1,200.00.
- [67] The Tenant disputes the Landlords' cleaning expenses. The Tenant stated that he did clean the Unit before leaving but some things were missed. The Tenant did not clean the stove and the fridge at the time the Tenant moved out. These appliances were not new appliances when the Tenant moved in.

[68] The Tenant disputes the steam cleaning machine expense. The only carpet in the Unit was an old runner that goes up the stairs that was not in good condition at the beginning of the tenancy. The Tenant does not recall stains or spills on the runner.

[69] Clause 39(2)(a) of the *Act* provides the following rules regarding the condition of the Unit at the end of a tenancy:

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...

[70] I note that the *Act* did not require the Tenant to leave the Unit in the same cleanliness condition as the beginning of the tenancy or move-in ready condition for the next occupant. The applicable standard is "*reasonably clean*."

[71] As stated above, the parties did not complete written move-in or move-out condition inspection reports as required by sections 18 and 38 of the *Act*. Although there are some photographs of the Unit taken near the end of the tenancy, the objective evidence is lacking regarding the condition at the beginning of the tenancy.

[72] Based upon the admissions of the Tenant and the photographs submitted, I am satisfied that parts of the Unit were not reasonably clean at the end of the tenancy. In particular, the stove and the fridge were not clean at the end of the tenancy. The photographs also show a brown substance and black marks in the Unit. I find that the evidence presented supports an entire cleaning cost of 8 hours cleaning work, at a total cost of \$230.00, to bring the Unit to reasonably clean condition.

[73] The parties provided conflicting evidence regarding the rug on the stairs and I have insufficient objective evidence to assess this claim. Therefore, this portion of the Landlords' cleaning claim is denied.

Painting

[74] The parties agree that the Unit was repainted before the Tenant moved into the Unit.

[75] The Landlords stated that there was dirt and black markings all over the walls and the entire house needed to be painted. The Landlords submitted into evidence an invoice which states that the labour cost for painting the Unit was \$1,127.00 (28 hours at \$35.00 per hour plus \$147.00 for HST). The Landlords stated that the painting materials cost was \$241.76.

[76] The Tenant stated that, near the end of the tenancy, he completed a walkthrough of the Unit with one of the Landlords. Painting was required for a spot in the living room, a spot in his boys' bedroom and a spot in the hallway, which were damaged during the tenancy. One of the walls was damaged by a recliner slamming into the wall and another wall was damaged due to black markings.

[77] The Tenant stated that he had started his career as a painter. The Tenant offered to seam fill, sand and paint the damaged walls. The Tenant stated that he asked the Landlords for the paint or the colour code. The Tenant stated that the Landlords told him not to worry about it because DM would take care of the painting. On August 4, 2024 the Tenant patched the walls but did not sand them because the patchwork first needed to dry.

[78] The Tenant stated that it should only have taken a gallon of paint to repaint three of the walls. The Tenant disputed that the whole Unit needed to be painted. The Tenant stated that the Landlord included an invoice for ceiling paint but there was no damage to the ceiling. The Tenant only agrees to \$68.26 of the materials cost.

[79] The evidence presented establishes that there was some wall damage during the tenancy beyond reasonable wear and tear. However, the evidence presented does not establish that the entire Unit needed to be repainted.

[80] With regard to the repainting, subsection 28(4) of the *Act* states:

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.

[81] The evidence establishes that the Tenant was willing to repaint the walls, which is authorized by subsection 28(4). The evidence presented also establishes that the Tenant was capable of completing the painting work and he requested the necessary information from the Landlords for obtaining the appropriate paint. The Tenant would not be able to properly repaint the damaged walls without being advised of the appropriate paint. The Landlords could have avoided the painting labour cost for the three damaged walls if the Tenant had completed the work instead of a painting company.

[82] For these reasons, I find that only the admitted painting materials cost of \$68.26 is supported by the evidence presented. The balance of the materials cost and the labour cost are denied.

Summary of Landlords' Established Claims

[83] In total, the Landlords have established claims in the amount of \$832.05, calculated as follows:

Item	Amount
Furnace oil	\$493.54
Curtain rods	\$40.25
Cleaning	\$230.00
Painting materials	\$68.26
Total	\$832.05

Tenancy Agreement Form

[84] Since April 8, 2023 landlords 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.

[85] The Landlords 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.

CONCLUSION

[86] I have offset the Tenant's and the Landlords' established claims that are determined above. The Landlords must pay the Tenant the net amount of \$1,886.89, calculated as follows:

Item	Amount
Double security deposit and interest	\$2,019.38
Tenant's established moving expenses	\$699.56
Landlords' established claims	-\$832.05
Net amount	\$1,886.89

[87] The Landlords must pay the Tenant the net amount above by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlords must pay the Tenant \$1,886.89 by November 25, 2024.

DATED at Charlottetown, Prince Edward Island, this 4th day of November, 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.