

INTRODUCTION

- [1] The Landlord seeks to retain the security deposit and seeks compensation exceeding the security deposit.
- [2] The Landlord also seeks to dispose of the personal property (the "Personal Property") left by the Tenants in the Unit, as shown in the Landlord's photographs and inventory list (the "Inventory").

DISPOSITION

- [3] I find that the Landlord will keep the security deposit, including interest, for rent owing and for storing the Personal Property. The Landlord's damage claims are denied.
- [4] I find that the Landlord may dispose of the Personal Property on the terms stated below.

BACKGROUND

- [5] The Landlord and the Tenants ("T1" and "T2") entered into a first written, fixed-term tenancy agreement from December 15, 2022 to December 15, 2023. A security deposit of \$2,100.00 was paid around November 30, 2022. Rent in the amount of \$2,100.00 was due on the fifteenth day of the month.
- [6] The Landlord and only T1 entered into a second written, fixed-term tenancy agreement from December 15, 2023 to December 15, 2024. The security deposit of \$2,100.00 remained with the Landlord and the monthly rent remained the same.
- [7] In June or July of 2024 T2 moved out of the Unit.
- [8] On October 17, 2024 the Landlord served T1 with a *Form 4(A) Eviction Notice* with an effective date of November 15, 2024 for non-payment of rent. T1 moved out of the Unit on November 15, 2024.
- [9] On November 27, 2024 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Monetary Application") with the Residential Tenancy Office (the "Rental Office") seeking retention of the security deposit and compensation exceeding the security deposit.
- [10] On December 18, 2024 the Rental Office emailed the parties notice of a teleconference hearing scheduled for January 21, 2025 along with a copy of the Monetary Application.
- [11] On January 14, 2025 the Rental Office emailed the parties a 53-page evidence package (the "Evidence Package").
- [12] On January 16, 2025 the Landlord filed a second *Form 2(B) Landlord Application to Determine Dispute* (the "Disposal Application") with the Rental Office seeking to dispose of the Personal Property. The Rental Office emailed the parties an updated notice of hearing, the Monetary Application and the Disposal Application.
- [13] On January 21, 2025 the Landlord, the Landlord's interpreter, and T2 participated in a teleconference hearing. I telephoned T1 but there was no response and it was not possible to leave a voicemail message. The hearing was adjourned to January 22, 2025 to provide T2 with additional time to review the Evidence Package. The Rental Office emailed the parties a rescheduled notice of hearing.
- [14] On January 22, 2025 the Landlord, the Landlord's interpreter, and T2 participated in a teleconference hearing. I telephoned T1 but there was no response and it was not possible to leave a voicemail message. The hearing proceeded in T1's absence. During the hearing the Landlord

and T2 agreed on a process for T2 to attend the Unit on January 25 or 26, 2025 and remove personal property.

- [15] On January 27, 2025 the Landlord informed the Rental Office that T2 had not made arrangements to attend the Unit to remove personal property.

ISSUES

- A. When did T2's tenancy end?
- B. Has the Landlord established valid claims against T1 for damage and rent owing?
- C. Can the Landlord dispose of the Personal Property?

ANALYSIS

A. When did T2's tenancy end?

- [16] The Tenants both signed the first tenancy agreement with the fixed term ending December 15, 2023. Only T1 signed the second tenancy agreement for the fixed term of December 15, 2023 to December 15, 2024. The parties both provided evidence that T1's tenancy continued after T2's tenancy ended. T2 stated that T1 wanted the Unit to herself. Based upon the evidence presented, it appears that T2's tenancy ended on December 15, 2023 and he continued to live in the Unit from this date to June or July of 2024 as an occupant, not a tenant.

- [17] As a result, T2's six-month timeframe for claiming against the Landlord as a tenant for the security deposit has expired under subsection 75(1) of the *Residential Tenancy Act* (or the "Act"). The Landlord's timeframe for claiming against T2 for damage and rent owing has also expired.

B. Has the Landlord established valid claims against T1 for damage and rent owing?

- [18] The Landlord stated that there was door and wall damage at the end of the tenancy. However, I do not have photographs of the damaged areas at the beginning of the tenancy to establish a baseline condition. Further, the Landlord stated that this damage was fixed without having to pay a contractor. I find that there is insufficient evidence to support the damage claims.
- [19] The Landlord's evidence establishes that T1 did not pay the last month's rent, in the amount of \$2,100.00. The security deposit, including interest, totals \$2,203.78. In the circumstances of this case where the Landlord has been storing the Personal Property remaining at the Unit, I find that the Landlord will also keep the interest component of the security deposit.

C. Can the Landlord dispose of the Personal Property?

- [20] The Landlord stated that around November 15, 2024 T1 had a moving company assist with moving out of the Unit.
- [21] At the time the Landlord filed the Disposal Application T1's white Toyota vehicle (the "Vehicle") was located at the Unit. As of January 22, 2025 the Vehicle had been removed from the Unit and the Landlord no longer needs authorization to dispose of the Vehicle. As a result, the Vehicle is not part of the Personal Property.
- [22] The Landlord stated that the Personal Property remaining at the Unit does not have significant value.
- [23] The Landlord has contacted the Tenants to remove the Personal Property but the Tenants have not made arrangements for removal.

[24] 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.

[25] I have reviewed the Inventory, documents and testimony provided by the Landlord and T2. I find that the Personal Property has no monetary value or the cost of removing, storing or selling the Personal Property would be more than the proceeds of the sale.

[26] As a result, the Disposal Application for the Personal Property in the Inventory is valid. The Landlord may dispose of the Personal Property contained in the Inventory through the solid waste disposal system on or after February 22, 2025.

[27] Subsection 43(2) of the Act states:

Where a tenant abandons or vacates a rental unit and leaves personal property on the residential property, the landlord shall either

(a) remove the personal property and immediately place it in safe storage; or

(b) store the personal property on the residential property in a safe manner.

[28] The Landlord may immediately remove the Personal Property from the Unit and store it in accordance with subsection 43(2).

CONCLUSION

[29] The Monetary Application is allowed in part. The Landlord will keep the security deposit of \$2,203.78 for rent owing and for storing the Personal Property. The Landlord's damage claims are denied.

[30] The Disposal Application is allowed. The Landlord may dispose of the Personal Property on the terms provided below.

IT IS THEREFORE ORDERED THAT

1. The Landlord will keep the security deposit, including interest, in the amount of \$2,203.78.
2. The Landlord may dispose of the Personal Property in the Inventory through the solid waste disposal system on or after February 22, 2025.

DATED at Charlottetown, Prince Edward Island, this 28th day of January, 2025.

(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.