

**INTRODUCTION**

- [1] The Landlord's Representatives (the "Representatives") seek to retain the security deposit and seek compensation exceeding the security deposit for rent owed, NSF charges and utilities.
- [2] The Representatives also seeks to dispose of the personal property (the "Personal Property") left by the Tenants in the Unit, as listed in the inventory list (the "Inventory").

**DISPOSITION**

- [3] The Tenants owe the Representatives \$3,386.12 in rent, NSF chargers and utilities. The Representatives will keep the security deposit, including interest, in the total amount of \$2,635.46. The Tenants must pay the Representatives the remaining balance of \$750.66 in rent owing.
- [4] I find that the Representatives have not established grounds to dispose of the Personal Property.

**BACKGROUND**

- [5] On July 1, 2024 the Tenants entered into a written, fixed-term tenancy agreement for the period of July 1, 2024 to June 30, 2025. Rent was \$2,600.00 due on the first day of the month. A \$2,600.00 security deposit was paid at the beginning of the tenancy.
- [6] On October 4, 2024 the Representatives served the Tenants with a *Form 4 (A) Eviction Notice* (the "Notice") for non-payment of rent. The effective date of the Notice was October 25, 2024.
- [7] On October 28, 2024 the Representatives filed an earlier application with the Residential Tenancy Office (the "Rental Office") seeking vacant possession of the Unit and for the Sheriff to put the Landlord in possession. The application also included a monetary claim for rent owing for September, October and November 2024, plus NSF charges and water utilities from July 2024 to September 2024.
- [8] On November 20, 2024 the Rental Office issued Order LD24-390, ordering the tenancy to end effective 5:00 p.m. on November 27, 2024.
- [9] On November 25, 2024 the Rental Office issued Order LD24-397, ordering the Tenants pay the Representatives \$7,787.45 for rent owed, NSF charges and utilities.
- [10] The Tenants appealed Order LD24-390 to the Island Regulatory and Appeals Commission (the "Commission"). On December 20, 2024 the Commission issued Order LR24-74, dismissing the Tenants' appeal and ordering the tenancy to end and the Tenants to vacate the Unit by 5:00 p.m. on January 6, 2025.
- [11] On December 23, 2024 the Representatives filed another *Form 2 (B) Landlord Application to Determine Dispute* (the "First Application") with the Rental Office. The First Application sought \$3,395.77 in rent owed, NSF charges and utilities.
- [12] On December 31, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing, scheduled for January 30, 2025.
- [13] On January 6, 2025 the tenancy ended and the Tenants were ordered to vacate the Unit, in accordance with Order LR24-74.
- [14] On January 7, 2025, Sheriff Services attended the Unit and enforced Order LR24-74.

- [15] On January 16, 2025 the Representatives filed an additional *Form 2 (B) Landlord Application to Determine Dispute* (the “Second Application”) with the Rental Office. The Second Application sought to retain the security deposit and compensation exceeding the security deposit.
- [16] Collectively, the First Application and the Second Application are referred to as the “Applications.”
- [17] On January 21, 2025 the Rental Office emailed the parties an updated notice of a teleconference hearing, scheduled for January 30, 2025.
- [18] On January 28, 2025 the Rental Office emailed the parties a 28-page PDF document (the “Evidence Package”).
- [19] Prior to the start of the hearing, the Representatives emailed the Tenants and the Rental Office the Inventory and requested a determination to dispose of the Personal Property.
- [20] On January 30, 2025 the Representatives and the Tenant, representing the Tenants, participated in a teleconference hearing. The parties confirmed receipt of the Evidence Package and the Inventory and that all documents submitted to the Rental Office were included in the Evidence Package.
- [21] At the hearing, I amended the Second Application under clause 80(3)(f) of the *Residential Tenancy Act* (or the “Act”) to include a disposal of the Personal Property claim.

## ISSUES

- i. Have the Representatives established a valid claim to retain the security deposit and for compensation exceeding the security deposit for rent, NSF charges and utilities owed?
- ii. Can the Representatives dispose of the Personal Property?

## ANALYSIS

- i. **Have the Representatives established a valid claim to retain the security deposit and for compensation exceeding the security deposit for rent owed?**
- [22] The evidence of the parties establishes that the Tenants did not pay rent for December 2024 and for the six days the Tenants occupied the Unit in January 2025.
- [23] In addition to the outstanding rental arrears, the Representatives stated that the Tenants owe \$50.00 for NSF charges due to the non-payment of rent for December 2024 and January 2025.
- [24] The Representatives stated that the Tenants owe \$232.89 for outstanding water utility charges from September 4, 2024 to December 23, 2024.
- [25] The Tenant stated that they did vacate the Unit on January 6, 2025. However, they returned to the Unit to collect some personal property before Sheriff Services arrived at the Unit on January 7, 2025.
- [26] The Tenant stated that he wanted to appeal Commission Order LR24-74 but was not familiar with the appeal process and all its requirements. The Tenant stated that he is speaking with a lawyer about his options. The Tenant stated that he is concerned about the Representatives bringing numerous future claims against the Tenants over rental arrears.

- [27] I find that the Representatives have established a valid claim in the amount of \$3,386.12 for rent owing, NSF charges and utilities. The Representatives will keep the security deposit and interest. In the amount of \$2,635.46. The Tenants must also pay the Representatives \$750.66, calculated as follows:

|                                     |                                           |
|-------------------------------------|-------------------------------------------|
| December 2024 rent:                 | \$2,600.00                                |
| January 1-6, 2025 rent:             | \$503.23 (6 days / 31 days' x \$2,600.00) |
| NSF Charges:                        | \$50.00                                   |
| <u>Water Utility:</u>               | <u>\$232.89</u>                           |
| Total Owed:                         | \$3,386.12                                |
| <u>Security Deposit + Interest:</u> | <u>(\$2,635.46)</u>                       |
| <b>Amount Owed:</b>                 | <b>\$750.66</b>                           |

ii. **Can the Representatives dispose of the Personal Property?**

- [28] The Representatives stated that the Personal Property is being stored in the Unit's garage. The Representatives stated that they have contacted the Tenants to remove the Personal Property but have been unable to schedule the Personal Property's removal.
- [29] The Tenant stated that he wants all the Personal Property in the Inventory. The Tenant stated that he will arrange to have the Personal Property removed within the week after the January 30, 2024 hearing.
- [30] 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.*
- [31] I have reviewed the Inventory, evidence and testimony provided by the parties. I find that the Representatives have not established grounds for disposing of the Personal Property in the Inventory at this time.
- [32] Subsection 43(7) of the Act requires the Representatives to establish at least one of the following: (a) the Personal Property to have 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) that the storage of the Personal Property would be unsanitary or unsafe.
- [33] In these circumstances, I find that the Representatives' evidence does not establish any of these grounds under the Act. I do not have photographs of the Personal Property to help assess its value.
- [34] I remind the Tenant that he is not entitled to leave the Personal Property in the Unit. If the Personal Property is not collected and removed forthwith, the Representatives may apply again and request the disposal of the Personal Property.

**CONCLUSION**

[35] The Applications are allowed in part. The Representatives will keep the security deposit and interest in the amount of \$2,635.46 for rent owed, NSF charges and utilities.

[36] The Tenants must pay the Representatives \$750.66 for rent owed by the timeline below.

**IT IS THEREFORE ORDERED THAT**

1. The Representatives will keep the security deposit and interest, in the amount of \$2,635.46.
2. The Tenants must pay the Representatives \$750.66 by Friday, February 28, 2025.

**DATED** at Charlottetown, Prince Edward Island, this 3rd day of February, 2025.

(sgd.) Cody Burke

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**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.