

INTRODUCTION

- [1] The Tenant is seeking a return of rent, a return of double the security deposit, a determination the Landlord failed to maintain and repair the Unit, compensation, and termination of the tenancy agreement.
- [2] The Landlord is seeking to keep the security deposit and compensation.

DISPOSITION

- [3] The tenancy between the parties is terminated effective September 30, 2024.
- [4] The Tenant has established that the Landlord has failed to maintain and repair the Unit, and the Landlord will compensate the Tenant \$925.00.
- [5] The Landlord will pay the Tenant double the security deposit, plus interest on the original security deposit, in the amount of \$3,734.79.
- [6] The Landlord's security deposit and compensation claims are denied.

BACKGROUND

- [7] The Unit is a basement apartment in a multi-unit building (the "Residential Property").
- [8] On April 18, 2024, the parties entered into a written, fixed-term tenancy agreement from May 1, 2024 to April 30, 2025. The Tenant moved in early on April 28, 2024. Rent of \$1,850.00 was due on the first day of the month. A security deposit of \$1,850.00 was paid at the beginning of the tenancy.
- [9] On September 13, 2024, the Tenant moved out of the Unit.
- [10] On September 18, 2024, the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "First Tenant Application") with the Residential Tenancy Office (the "Rental Office") seeking a determination the Landlord failed to maintain the Unit, compensation, and to terminate the tenancy agreement.
- [11] On September 27, 2024, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 24, 2024.
- [12] On October 22, 2024, the Tenant requested the hearing to be rescheduled.
- [13] On October 28, 2024, the Tenant filed a second *Form 2 (A) Tenant Application to Determine Dispute* (the "Second Tenant Application") with the Rental Office seeking a return of rent, double the security deposit, a determination that the Landlord failed to maintain the Unit, compensation, and to terminate the tenancy agreement. The two Tenant applications will collectively be called the "Tenant Applications."
- [14] On November 5, 2024, the Rental Office mailed and emailed the parties notice of a teleconference hearing rescheduled for December 10, 2024.
- [15] On December 5, 2024, the Rental Office shared an evidence package with parties via TitanFile.
- [16] On December 10, 2024, the Landlord requested the hearing to be rescheduled.
- [17] On January 7, 2025, the Rental Office emailed the parties notice of a teleconference hearing rescheduled for January 30, 2025.

- [18] On January 21, 2025, the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Rental Office seeking to keep the security deposit and compensation.
- [19] On January 30, 2025, the Tenant and the Landlord representative (the "Representative") participated in a teleconference hearing. Both parties stated they received a copy of the evidence package and that all documents submitted to the Rental Office were included in the evidence package.

ISSUES

- A. When did the tenancy end?
- B. Must the Landlord compensate the Tenant for failing to maintain and repair the Unit?
- C. Must the Landlord return double the security deposit to the Tenant?

ANALYSIS

A. When did the tenancy end?

- [20] The Tenant stated she is seeking a return of half of September 2024's rent (\$925.00) because she moved out of the Unit on September 13, 2024, and had paid for the full month. The Tenant stated that she provided the Landlord notice on September 5 and 10, 2024, that she was moving because of mold in the Unit and health issues her children were experiencing. The Tenant submitted as evidence an advertisement dated September 20, 2024, which she believes shows her Unit being advertised for rent.
- [21] The Representative stated the Landlord is seeking \$12,950.00 in compensation for rent owed for the rest of the fixed term from October 2024 to April 2025. The Representative stated that the Tenant moved out of the Unit on September 13, 2024, without giving the Landlord proper notice. The Representative stated he was unsure if the Unit had been advertised to re-rent but confirmed the Unit was still empty. He could not confirm if the ad in the Tenant's evidence was the Unit.
- [22] Clause 55(3) of the *Residential Tenancy Act* (the "Act") states that a tenant may end a fixed-term tenancy by giving the landlord a notice of termination effective on a date that (1) is not earlier than one month after the date the landlord receives the notice, (2) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, (3) and is the day that rent is payable under the tenancy agreement.
- [23] I find that the Landlord has provided sufficient evidence to establish that the Tenant failed to comply with the notice requirements to end the fixed-term tenancy agreement.
- [24] However, despite the Tenant's improper notice, the Landlord was also required to attempt to find a new tenant to mitigate their losses (s. 46 of the Act). The Representative noted the Unit was still empty, but he was unsure if it had been advertised to re-rent and could not confirm the ad submitted by the Tenant was for the Unit. Therefore, there is insufficient evidence to establish that the Landlord has complied with the Act and attempted to mitigate their losses.
- [25] In this case, both parties failed to comply with their requirements under the Act. As the Tenant had paid rent in full for September 2024, I find that ending the tenancy on September 30, 2024, is appropriate.
- [26] I find that the Tenant has not established that the Landlord must return half of September 2024's rent. I further find that the Landlord has not established that the Tenant must compensate the Landlord for rent owing from October 2024 to April 2024.

B. Must the Landlord compensate the Tenant for failing to maintain and repair the Unit?

- [27] The Tenant stated she is seeking a determination that the Landlord failed to maintain and repair the Unit and seeks compensation of \$1,600.00 because she had to discard items due to mold. The Tenant stated that \$1,600.00 is an estimate of the cost she incurred to replace the discarded items.
- [28] The Tenant stated after she moved into the Unit, her children became ill because of mold in the Unit. The Unit had cockroaches, mouse droppings, and previous water damage. The Tenant stated her doctor advised her not to continue living in the Unit, and medical reports for the Tenant's children were submitted as evidence.
- [29] The Tenant stated that on June 25, 2024, rain caused water damage in the Unit. The Tenant asked the Landlord for repairs and help with the water damage, but nothing was done. The Tenant denied that she was uncooperative with the Landlord's property managers. Photographs and videos of the Unit were submitted as evidence.
- [30] The Tenant stated that on July 10, 2024, she contacted Environmental Health due to the repairs required in the Unit. On July 15, 2024, Environmental Health sent a letter to the Landlord requiring repairs to be actioned within 10 business days and completed no later than September 15, 2024. The letter stated that the Landlord must contact Environmental Health if they require an extension. The letter required the Landlord to address:
- a. *Source of water infiltration to be identified and remediated.*
 - b. *Mold remediation to be completed by a professional mold remediation company.*
 - c. *Light fixtures to be repaired to a safe working order.*
 - d. *Ceiling tile to be replaced once source of water infiltration has been remediated.*
- [31] The Representative stated that the mold issue did not start until July 2024. In August and September 2024, the Landlord attempted to address the problems the Tenant identified, but the Tenant's spouse was aggressive with the Landlord's property manager. The Tenant was sent notices for inspection, but the Tenant was not home for the inspections.
- [32] The Landlord submitted an Affidavit from "MV," who stated he is the property manager for the Landlord. MV stated that in August 2024, he attended the Unit for an inspection, but the Tenant's spouse was uncooperative and aggressive. After that time, the Tenant became uncooperative with follow-ups with MV. On August 18, 2024, MV sent the Tenant a 24-hour notice for a second inspection, but the Tenant was not home.
- [33] The Landlord submitted an Affidavit from "JB," who stated he used to be a property manager for the Landlord. JB stated that the Tenant's Unit was a basement apartment, and he had observed water damage in the Unit.
- [34] The Landlord submitted an Affidavit from "AM," who stated he is a Landlord representative. AM stated the Tenant did not notify the property manager of any repair issues, and he has not seen any leaks in the Unit.
- [35] Clause 28(1) of the Act states that a landlord is required to comply with the health, safety and housing standards required by law and, regarding the age, character and location of the rental unit, make it suitable for occupation by a tenant.
- [36] Clause 9(a) of the *Public Health Act Rental Accommodation Regulations* (the "Regulations") states that a landlord is required to complete necessary repairs to a rental unit to make it sound, weatherproof, damp-proof, vermin-proof, safe, and sanitary.

- [37] The evidence establishes that on July 15, 2024, Environmental Health sent a letter to the Landlord requiring repairs to be completed. There is insufficient evidence that the necessary repairs were actioned within 10 business days or completed by September 15, 2024. There is also insufficient evidence that the Landlord requested an extension from Environmental Health to complete the repairs.
- [38] The Landlord submitted three Affidavits from Landlord representatives detailing alleged behaviour by the Tenant and/or the condition of the Unit. However, none of the representatives participated in the hearing to provide direct evidence or to answer questions about the matters being determined. I also note that a tenant is not required to be home for an inspection or repairs if proper notice is provided.
- [39] I find that the Tenant has provided sufficient evidence to establish that the Landlord has contravened the Act and the Regulations by failing to maintain and repair the Unit. However, the Tenant only provided an estimate of the cost of the items that she stated she replaced. I find that the Tenant has not provided sufficient evidence, such as receipts or invoices, to establish the loss claimed.
- [40] I do find that the Tenant has provided sufficient evidence to establish that the value of the tenancy had been reduced by the Landlord's contravention of the Act and the Regulations. As such, I find it appropriate to award the Tenant compensation equivalent to one-half month's rent totalling \$925.00.

C. Must the Landlord return double the security deposit to the Tenant?

- [41] Section 40 of the Act addresses the retention and return of a security deposit. After the tenancy ended on September 30, 2024, the Landlord had 15 days (October 15, 2024) to either return the security deposit to the Tenant or file an application with the Rental Office to keep the security deposit, but the Landlord did neither. The Landlord did not apply to keep the security deposit until January 21, 2025.
- [42] No earlier Rental Office decisions authorize the Landlord to keep the security deposit. At the end of the tenancy, the parties did not enter a written agreement permitting the Landlord to keep the security deposit.
- [43] I find that the Landlord did not comply with the Section 40 requirements for retaining a security deposit. Therefore, by operation of law, the Landlord must compensate the Tenant double the security deposit plus interest on the security deposit under subsection 40(4), as calculated below.

CONCLUSION

- [44] The Tenant Applications are allowed in part, and the Landlord Application is denied.
- [45] The amounts owing are calculated as follows:

Item	Amount
Security Deposit	\$1,850.00
Interest (Apr. 18/24 – Feb. 12/25)	\$34.79
Double Security Deposit	\$1,850.00
Compensation	\$925.00
Total	\$4,659.79

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties is terminated effective September 30, 2024.
2. The Landlord will pay the Tenant \$4,659.79 by March 31, 2025.

DATED at Charlottetown, Prince Edward Island, this 12th day of February, 2025.

(sgd.) Mitch King

Mitch King
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.