

INTRODUCTION

- [1] The Tenant is seeking a return of the security deposit.
- [2] The Landlord is seeking to keep the security deposit for rent owed for December 2024.

DISPOSITION

- [3] The Landlord will keep \$653.13 of the Tenant's security deposit for rent owed for December 2024.
- [4] The Landlord will pay the Tenant the remainder of the security deposit, plus interest, totalling \$108.04.

BACKGROUND

- [5] The Unit is a room that includes shared common spaces in a house (the "Residential Property"). The Landlord rents rooms from the owner of the Residential Property and then sublets those rooms.
- [6] On July 13, 2024, the parties entered into a written fixed-term tenancy agreement for the Unit from September 1, 2024, to September 1, 2025. Rent was \$750.00 monthly, and a security deposit of \$750.00 was paid by July 13, 2024.
- [7] On November 19, 2024, the Tenant moved out of the Unit.
- [8] On January 2, 2025, the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Residential Tenancy Office (the "Rental Office"), seeking a return of the security deposit.
- [9] On January 8, 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 for rent owed for December 2024.
- [10] On January 24, 2025, the Rental Office emailed the parties notice of a teleconference hearing scheduled for February 18, 2025.
- [11] On February 11, 2025, the Rental Office emailed a 108-page evidence package to the parties.
- [12] On February 13, 2025, the Rental Office emailed a seven-page supplementary evidence package to the parties.
- [13] On February 18, 2025, the hearing was postponed because the Rental Office was closed due to a snowstorm.
- [14] On February 19, 2025, the Landlord, the Tenant, and the Tenant's witness participated in a teleconference hearing. The parties stated they received a copy of the evidence packages and that all documents submitted to the Rental Office were included in the evidence packages.

ISSUE

- A. Can the Landlord keep the security deposit for rent owed for December 2024?

ANALYSIS

- [15] The Tenant stated that she is seeking a return of the security deposit. The Tenant stated that on November 14, 2024, she told the Landlord that she would be moving out before the end of the tenancy agreement. The Tenant stated that she paid rent for November 2024 and moved out on November 19, 2024.
- [16] The Tenant stated that she moved out because she was not allowed to have guests stay over at the Unit without paying a \$20.00 per night guest fee. She stated that she was not told about the guest fee when she signed the tenancy agreement, and notice of the guest fee was not posted until November 8, 2024. The Tenant stated she tried to negotiate the price with the Landlord and owner, but she was not successful.
- [17] The Tenant's witness stated that he was present when the Tenant viewed the Unit. The witness stated he asked the Landlord if he was able to stay overnight with the Tenant, and the Landlord stated that was okay. There was no mention of a guest fee at that time.
- [18] The Landlord stated that he was seeking to keep the security deposit for rent owed for December 2024 because the Tenant did not provide proper notice to end the tenancy agreement. The Landlord stated that the Tenant provided notice on November 15, 2024, that she would be moving out. The Landlord stated that the owner of the house required the \$20.00 guest fee, and he was not able to negotiate this rule.
- [19] The Landlord stated that he and the Tenant advertised the Unit for rent, but the Landlord was not able to secure another Tenant until December 28, 2024. Copies of advertisements and a copy of the new tenant's tenancy agreement were submitted as evidence.
- [20] 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.
- [21] 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.
- [22] Section 46 of the Act states that a landlord is required to attempt to find a new tenant to mitigate their losses when a tenant abandons a rental unit. I find that the Landlord has provided sufficient evidence to establish that he advertised the Unit for rent once he was aware that the Tenant was moving out. I also find that the Landlord has provided sufficient evidence to establish that he was not able to secure another tenant until December 28, 2024.
- [23] Therefore, I find that the tenancy between the parties was terminated effective December 27, 2024. The Landlord will keep \$653.13 of the security deposit for rent owed for 27 days in December 2024, calculated as follows:
- $$\begin{aligned} \$750.00 / 31 \text{ days} &= \$24.19 \text{ per day} \\ \$24.19 \text{ per day} \times 27 \text{ days} &= \$653.13 \end{aligned}$$
- [24] I find that the guest fee dispute does not amount to behaviour justifying termination of the tenancy agreement. If the Tenant believed that the Landlord was failing to comply with the Act or the tenancy agreement regarding the guest fee, the Tenant could have filed a *Form 2 (A) Tenant Application to Determine Dispute* with the Rental Office for a determination on that matter.

CONCLUSION

- [25] The Tenant Application is allowed in part, and the Landlord Application is allowed in part.
- [26] The Landlord will keep \$653.13 of the Tenant's security deposit for pro-rated rent owed for December 2024.
- [27] The Landlord will pay the Tenant the remainder of the security deposit, plus interest, totalling \$108.04, according to the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlord will keep \$653.13 of the Tenant's security deposit for pro-rated rent owed for December 2024.
2. The Landlord will pay the Tenant \$108.04 by April 7, 2025.

DATED at Charlottetown, Prince Edward Island, this 5th day of March, 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.