

INTRODUCTION

- [1] The Landlord applied to keep part of the Tenants' security deposit.
- [2] The Tenants dispute the Landlord keeping the security deposit and are seeking compensation of \$1,950.00.

DISPOSITION

- [3] The Landlord's claims are denied. The Landlord will return the remainder of the Tenants' security deposit, plus interest, totalling \$1,152.86.
- [4] The Tenants' compensation claim is denied.

BACKGROUND

- [5] The Unit was a single-family house the Landlord owned. The Landlord stated that she sold the Unit after the Tenants moved out.
- [6] The parties entered into a written, fixed-term tenancy agreement for the Unit for the period of January 1, 2023, to December 31, 2023. On January 1, 2024, the parties entered into a second fixed-term tenancy agreement for the Unit for the period of January 1, 2024, to December 31, 2024. The Tenants moved out of the Unit on December 31, 2024, and the tenancy ended.
- [7] Rent was \$1,950.00 monthly, and a security deposit of \$1,312.50 was paid at the beginning of the tenancy. \$227.58 of the security deposit was returned on January 16, 2025.
- [8] On January 2, 2025, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Residential Tenancy Office (the "Rental Office"), seeking to keep the remainder of the Tenants' security deposit.
- [9] On February 6, 2025, the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office, seeking compensation of \$1,950.00.
- [10] On February 10, 2025, the Rental Office emailed the parties notice of a teleconference hearing scheduled for February 25, 2025.
- [11] On February 20, 2025, the Rental Office emailed a 370-page evidence package to the parties.
- [12] On February 21, 2025, the Rental Office emailed one page of additional evidence to the parties.
- [13] On February 25, 2025, the Landlord and Tenants participated in a teleconference hearing. All parties stated they received a copy of the evidence package and additional evidence and that all submitted documents were included.
- [14] After the hearing, the parties submitted additional evidence, which was shared with each party.
- [15] On March 12, 2025, the Landlord emailed the Tenants and the Rental Office, stating that she was amending the Landlord Application. The Landlord stated she was no longer seeking \$150.00 for the rent increase adjustment or \$140.00 for drywall repair. The Landlord stated that she was only seeking \$331.66 for landscaping but that she was still seeking the other expenses listed in the Landlord Application.

ISSUES

- A. Can the Landlord keep part of the Tenants' security deposit?
- B. Must the Landlord compensate the Tenants?

ANALYSIS**A. Can the Landlord keep part of the Tenants' security deposit?****Early Access**

- [16] The Landlord stated that she was seeking compensation of \$282.26 because the Tenants were provided early access to the Unit. The Tenants moved in on December 27, 2022, and they did not pay rent from December 27, 2022, to December 31, 2022. The Landlord stated that she did not discuss paying rent for early access with the Tenants at the time they moved in. The Landlord stated she assumed it was expected that the Tenants would pay this expense if they did not move out on December 27, 2024.
- [17] The Tenants disputed paying this expense. The Tenants stated that the Landlord never discussed paying rent for moving in early until they were moving out of the Unit. The Tenants submitted messages between the parties as evidence.
- [18] I note that in the 2023 tenancy agreement, there is no evidence establishing that the Tenants were required to pay additional rent for moving into the Unit early. The 2024 tenancy agreement states that the tenancy was to end on December 31, 2024. There is no evidence in the tenancy agreements establishing that the Tenants were required to move out on December 27, 2024, or pay any additional rent if they stayed past that date.
- [19] The parties agreed that there was no discussion about the Tenants paying rent for early access to the Unit until the Tenants were moving out. I find that if the Landlord required the Tenants to pay rent for early access to the Unit in December 2022, the matter should have been discussed and agreed upon in writing between the parties at that time. This claim is denied.

Landscaping

- [20] The Landlord is seeking \$331.66 in compensation for landscaping. The Landlord stated that the Tenants were required to maintain the yard during the tenancy, and after the Tenants moved out, the Landlord found that the Tenants allowed overgrowth to occur at the tree line and the fire pit. The Landlord hired a company to complete the landscaping before she sold the Unit, and it cost \$331.66. Before and after photographs of the lawn and a landscaping invoice were submitted as evidence.
- [21] The Tenants stated that they moved into the Unit during the winter, so they did not know what the lawn was supposed to look like in the summer. They stated that the Landlord never told them during their tenancy that they had to cut the grass in the overgrowth areas. They stated that if the Landlord had told them to maintain these areas, they would have done so. The Tenants stated that the submitted messages between the parties also show that the Landlord told the Tenants several times that she would be hiring someone to take care of the overgrowth.
- [22] I note that the Landlord is seeking compensation for a breach of a term of the tenancy agreement, which states:

Where the property has its own garden or grass area which is for the exclusive use of the Tenant and its guests, the Tenant will water, fertilize, weed, cut and otherwise maintain the garden or grass area in a reasonable condition including any trees or shrubs therein.

- [23] The tenancy agreement states that the grass area was to be kept in a “*reasonable condition*.” I find that the submitted photographs establish that the Tenants left the grass area in a reasonable condition when they moved out of the Unit. Furthermore, there is no evidence that the Landlord requested that the Tenants cut the long grass at the tree line or firepit at any time during tenancy.

Doormat and Drapes

- [24] The Landlord is seeking \$50.00 in compensation for the replacement value of a doormat that the Tenants stated they discarded. The Landlord stated that the original cost of the doormat was \$150.00. The Landlord stated that she does not want the doormat the Tenants purchased as a replacement.
- [25] The Landlord is seeking \$75.00 in compensation for the replacement value of drapes, as she alleges that the Tenants or their pets damaged the drapes. The Landlord stated that the original cost of the drapes was \$140.00. Move-out photographs of the drapes were submitted as evidence.
- [26] The Tenants stated that they had discarded the Landlord’s doormat, but it was in poor condition. The Tenants offered to give the Landlord the replacement doormat that they had purchased for the Unit.
- [27] The Tenants denied that they or their cats damaged the drapes. They stated there were holes in the top and bottom of the drapes, and their cats cannot climb that high to cause damage at the top.
- [28] In Order LR25-02, the Island Regulatory and Appeals Commission stated:

The Commission wishes to remind landlords that in order to fully support claims for damage and or necessary cleaning it is essential to have pictures for both the beginning and the end of the tenancy. Pictures at the beginning of the tenancy are necessary to establish a reference point with respect to condition and cleanliness.

- [29] The parties did not complete a written move-in condition inspection report, and there are no photographs showing the condition of the doormat or drapes when the Tenants moved in. As a result, I have limited evidence regarding the baseline condition of the doormat or drapes at the beginning of the tenancy.
- [30] I note that one of the benefits of completing a move-in inspection report is that landlords and tenants put their minds to cleanliness and damage problems at the beginning of the tenancy.
- [31] The *Rental of Residential Property Act* (the “*Former Act*”) was in force at the time the tenancy commenced. Although inspection reports were not mandatory under the *Former Act*, the Rental Office had a standard inspection report form available at that time to assist landlords and tenants in documenting the condition of rental units.
- [32] Without any move-in photographs or move-in inspection report, I am unable to determine the condition of the doormat or drapes at the start of the tenancy. Furthermore, the Landlord had not provided sufficient documentary evidence, such as receipts or invoices, to assist in establishing the expense or loss that she had incurred regarding these claims.

- [33] Furthermore, subsection 28(4) of the *Residential Tenancy Act* (the “Act”) states that:

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.

- [34] The evidence establishes that the Tenants offered to give the Landlord a replacement doormat they purchased for the Unit, but the Landlord refused. I find that by offering the replacement doormat, the Tenants have fulfilled their obligation under subsection 28(4) by offering to “repair” the damage to the Unit. I note that because the Landlord refused the “repair,” it is not reasonable to hold the Tenants responsible for this expense. These claims are denied.

B. Must the Landlord compensate the Tenants?

- [35] The Tenants stated that they are seeking compensation of \$1,950.00 because the Landlord contravened the Tenants’ right to quiet enjoyment and privacy. The Tenants stated that the Landlord slandered them on Facebook and tried to get them to sign a security deposit form even though they disagreed with what was written. The Landlord took pictures inside the Unit and posted them on Facebook without their permission.

- [36] The Landlord took furnishings from the Unit that were included in the rent and turned down/off the heat on more than one occasion. The Landlord continuously messaged the Tenants after hours, which caused them an extreme amount of stress. The Landlord threatened to deduct fees from the security deposit if they did not comply with her wishes. The Landlord allowed someone into the Unit when they were not home without giving 24-hours’ notice. The Landlord moved the Tenants’ belongings during showings.

- [37] The Landlord denied the Tenants’ allegations. The Landlord stated that the number of viewings while the Tenants lived at the unit was minimal, with many having more than 24-hours’ notice. The Tenants had indicated prior to the Unit being listed that they would be able to make it through the outlined expectations; however, they did not make efforts to follow through on any of the requests. The Landlord denied messaging the Tenants at all hours. The Landlord stated that a family member attended the Unit to take a water sample with the Tenants’ permission, but the Tenants did not indicate they wished to be home until after it had been completed.

- [38] Section 22 of the Act states:

A tenant is entitled to quiet enjoyment of the rental unit including, but not limited to, the right to

(a) reasonable privacy;

(b) freedom from unreasonable disturbance;

(c) exclusive possession of the rental unit, subject only to the landlord’s right to enter the rental unit in accordance with section 23; and

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

- [39] The Tenants have the burden of proof to establish their claim on a balance of probabilities. I have reviewed the parties’ testimony and submitted messages. I find that the Tenants have not provided sufficient evidence to establish that the Landlord’s actions with regard to selling the Unit were unreasonable or a contravention of section 22 of the Act. This claim is denied.

CONCLUSION

- [40] I find that the Landlord Application is denied, and the Tenant Application is denied.
- [41] The Landlord will return the remainder of the Tenants' security deposit, plus interest, totalling \$1,152.86. The calculations are as follows:

Item	Amount
Remaining security deposit	\$1,084.92
Interest on \$1,312.50 (Jan. 1/22 – Jan. 16/25)	\$63.78
Interest on \$1,084.92 (Jan. 17/25 – Mar. 14/25)	\$4.16
Total	\$1,152.86

IT IS THEREFORE ORDERED THAT

1. The Landlord will return the remainder of the Tenants' security deposit, plus interest, totalling \$1,152.86, by April 14, 2025.

DATED at Charlottetown, Prince Edward Island, this 14th 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.