

**INTRODUCTION**

- [1] The Tenant seeks early termination of the tenancy agreement. The Tenant also seeks the return of the security deposit, including interest, double the security deposit and compensation in the amount of \$250.00 for failure to provide services included in the tenancy agreement.
- [2] The Landlord seeks to keep the security deposit, including interest for damage and cleaning.

**DISPOSITION**

- [3] The tenancy agreement ended on January 31, 2025, by mutual agreement.
- [4] The Landlord must compensate the Tenant the security deposit, including interest, double the security deposit and \$250.00 for failure to provide services included in the tenancy agreement.
- [5] The Landlord has not established valid claims for damage and cleaning.

**BACKGROUND**

- [6] The Unit is a room rental in a 3-bedroom and 1-bathroom apartment, with shared common areas (the "Residential Property").
- [7] On July 28, 2023, the parties entered into a written fixed-term tenancy agreement for the Unit. The fixed-term is dated from August 1, 2023 to July 30, 2025. However, Schedule "D" of the tenancy agreement states: "This rental agreement is for a one-year fixed term with an option to renew a one-year fixed term. Tenants must notify the landlord in writing 60 days from the end of your agreement notifying us if you are staying or moving." Rent was \$650.00 due on the first day of the month.
- [8] On August 6, 2023, the Tenant paid a \$650.00 security deposit.
- [9] On January 10, 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 early termination of the tenancy agreement, the return of the security deposit, including interest, double the security deposit and compensation.
- [10] On January 12, 2025, the Tenant vacated the Unit.
- [11] On February 11, 2025, the Rental Office emailed the parties notice of a teleconference hearing scheduled for March 20, 2025.
- [12] On March 12, 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, including interest for damage and cleaning. Collectively, the Tenant Application and the Landlord Application are referred to as the "Applications."
- [13] On March 14, 2025, the Rental Office made available a 66-page PDF document and two video-recordings (the "Evidence Package" or "EP") through TitanFile.
- [14] On March 20, 2025, the Tenant, three witnesses for the Tenant ("TW1," "TW2," and "TW3"), and three support persons for the Tenant joined the teleconference hearing. The Landlord informed the Rental Office that he did not wish to participate in the hearing. The Landlord did not join the teleconference hearing. The Tenant confirmed that he received the Evidence Package and confirmed that all evidence submitted to the Rental Office was included. The hearing proceeded in the Landlord's absence.

**ISSUES**

- A. When does the tenancy agreement end?
- B. Must the Landlord return the security deposit, interest, double the security deposit, and compensate the Tenant?
- C. Has the Landlord established valid claims against the Tenant for damage and cleaning?

**ANALYSIS****A. When does the tenancy agreement end?**

- [15] The Tenant seeks to end the tenancy agreement early.
- [16] The Tenant stated that there was no pre-tenancy inspection completed for the Unit.
- [17] The Tenant stated that he did not renew the fixed-term agreement in the Summer of 2024. The Tenant stated that there was no communication with the Landlord and that he did not renew the fixed-term. The Tenant stated that he believed the tenancy converted to a month-to-month agreement.
- [18] The Tenant stated that on January 11, 2025, he informed the Landlord that he was vacating the Unit on January 12, 2025. The Tenant stated that he paid all of January 2025's rent and believed the tenancy ended on January 31, 2025.
- [19] The Tenant stated that on February 5, 2025, he text messaged the Landlord about the tenancy ending on January 31, 2025, and requested the security deposit be returned. The text message correspondence was submitted into evidence (EP39-43).
- [20] On February 6, 2025, the Landlord responded to the Tenant and stated that he would inspect the Unit on Sunday, February 9, 2025.
- [21] On February 11, 2025, the Landlord sent a text message to the Tenant a list of issues he found during his inspection of the Unit. The Landlord wanted the Tenant to fix the listed issues before the security deposit would be returned.
- [22] The Tenant stated that he was not invited to do the inspection with the Landlord. The Tenant stated that he disagreed with the Landlord's complaints because much of the Landlord's complaints were regarding the common areas of the Residential Property.
- [23] The Landlord's evidence stated: "I agree to terminate the tenancy agreement with the [Tenant]" (EP46).
- [24] I note that the Landlord's evidence does not provide when he agreed to terminate the tenancy. The statement made in the evidence was submitted on March 12, 2025.
- [25] I have reviewed the evidence and I find that the tenancy agreement ended January 31, 2025, by mutual agreement.
- [26] Particularly, I find that the text messages (EP39-43) provide satisfactory evidence that the parties agreed that the tenancy would end January 31, 2025, and that the Landlord would complete a post-tenancy inspection of the Unit. I note that the tenancy agreement had an option to renew, however, the evidence does not suggest that the parties renewed the option in the Summer of 2024. This means the tenancy converted to a month-to-month agreement.

**B. Must the Landlord return the security deposit, interest, double the security deposit, and compensate the Tenant?**

**Security Deposit, Interest & Double the Security Deposit**

[27] Section 40 of the *Residential Tenancy Act* (or the "Act") addresses the retention and return of a security deposit, stating in part as follows:

- (1) *Except as provided in subsection (2) or (3), within 15 days after the date the tenancy ends or is assigned, the landlord shall either*
  - (a) *issue payment, as provided in subsection (5), of any security deposit to the tenant with interest calculated in accordance with the regulations; or*
  - (b) *make an application to the Director under section 75 claiming against the security deposit.*
- (2) *A landlord may retain from a security deposit an amount that*
  - (a) *the Director has previously ordered the tenant to pay to the landlord; and*
  - (b) *remains unpaid at the end of the tenancy.*
- (3) *A landlord may retain an amount from a security deposit if*
  - (a) *at the end of a tenancy, the tenant agrees in writing that the landlord may retain the amount to pay a liability or obligation of the tenant; or*
  - (b) *after the end of the tenancy, the Director orders that the landlord may retain the amount.*
- (4) *Where a landlord does not comply with this section, the landlord*
  - (a) *shall not make a claim against the security deposit; and*
  - (b) *shall pay the tenant double the amount of the security deposit.*

[28] For the reasons above, I have found that the tenancy ended January 31, 2025, by mutual agreement.

[29] The Landlord had fifteen days (February 17, 2025) to either return the security deposit or file an application with the Rental Office. In this case, the Landlord did not file the Landlord Application until March 12, 2025. There are no earlier Rental Office decisions authorizing the Landlord to keep the security deposit, and at the end of the tenancy the parties did not agree in writing to allow the Landlord to keep the security deposit.

[30] As a result, I find that the Landlord did not comply with the section 40 requirements for keeping a security deposit. Therefore, by operation of law, the Landlord must compensate the Tenant double the security deposit, including interest on the original amount, under subsection 40(4) of the Act.

[31] The security deposit, interest and double the security deposit claim is allowed, calculated as followed:

Item	Amount
Security Deposit	\$650.00
Interest (06 AUG 2023 to 26 MAR 2025)	\$25.00
Security Deposit (Double Awarded)	\$650.00
Total	\$1,325.00

**Compensation for Failure to Provide Services in the Tenancy Agreement**

- [32] The Tenant is seeking \$250.00 for compensation because the Landlord failed to adequately and in a reasonable amount of time repair services included in the tenancy agreement.
- [33] The Tenant stated that heat and hot water are included services in the tenancy agreement (EP10). Since late 2023, there has been on-going issues with heating the Residential Property and since December 2024, there has been no hot water in the Residential Property. The Tenant submitted text messages and emails with the Landlord, regarding the complaints.
- [34] TW1 stated that he lived in the Residential Property during the same time as the Tenant. TW1 experienced the same heating and hot water issues the Tenant experienced. TW1 stated that he brought it to the Landlord's attention but the Landlord would not repair the heating issues.
- [35] TW2 stated that he lived in the Residential Property during the same time as the Tenant. TW2 stated that the Landlord would intimidate the tenants by threatening to keep the security deposit. TW2 stated that he requested his security deposit be returned but the Landlord did not return it.
- [36] The Tenant stated that he is seeking \$250.00 as reasonable compensation for the period of time he has went without services that are included in the tenancy agreement.
- [37] The Tenant submitted an Environmental Health Report (the "Health Report"), which is dated January 14, 2025 (EP14). The Health Report made the following requirements:
1. Source of water leak to be located, and repairs made to prevent further water infiltration into the rental unit.
  2. Repairs to the water damaged sections of the ceiling to be completed.
  3. Plumbing issues in the kitchen sinks of both units to resolved. **This includes the drainage of water as well as the availability of hot water** [emphasis added].
  4. **Heating system for the units to be assessed and repairs made as necessary to ensure that unit is capable of maintaining a temperature above 18.3 degrees Celsius at all times** [Emphasis added].
- [38] The Health Report noted that during the January 6, 2025, inspection, the Unit temperature was 17-18 degrees Celsius while the common areas were between 14-16 degrees Celsius (EP14-15).
- [39] Subsection 28(1) of the Act requires a landlord to repair and maintain the rental unit, complying with all the health, safety and housing standard required by law.
- [40] Further, section 8 of the *Public Health Act Rental Accommodation Regulations* requires a landlord to adequately heat and keep the rental unit free from dampness.
- [41] I have reviewed the evidence and I am satisfied that the Landlord was sufficiently made aware of the issues regarding heat and hot water at the Residential Property. The evidence does not establish that the Landlord took adequate steps to repair the Tenant's concerns in a reasonable time.
- [42] I find that the Tenant and the Tenant's witnesses ended up vacating the Residential Property due to the lack of repairs and deteriorating condition of the Residential Property. I find that the Tenant has established a valid claim for compensation, in the amount of \$250.00.

**C. Has the Landlord established valid claims against the Tenant for damage and cleaning?**

[43] For the reasons above, I have found that the Landlord did not comply with section 40 of the Act. Therefore, the Landlord must pay the Tenant double the security deposit.

[44] I note that the Landlord Application sought to keep the security deposit for damage and cleaning. The purpose of the Landlord Application was to be compensated for damage and cleaning in the amount of \$650.00 (the total amount of the security deposit). I will consider the Landlord Application on its merits and amend the Landlord Application under clause 80(3)(f) of the Act to make a determination on if the Landlord has valid claims for additional compensation.

[45] The Landlord did not participate at the hearing and did not provide submissions. The Landlord Application's particulars summarize the Tenant not following "house rules" or the tenancy agreement. The Landlord submitted photographs into evidence that are not timestamped, which appear to be the Unit and the common areas of the Residential Property.

[46] The Tenant disputed that the Unit was damaged or unclean. The Tenant stated that there was some pre-existing damage to his bedframe and the Landlord's photographs are of the kitchen, which is a common area.

[47] I have reviewed the evidence and I find that the Landlord has not established his claims.

[48] Clause 39(2) of the Act provides the following rules regarding the condition of a rental unit at the end of the tenancy:

*When a tenant vacates a rental unit, the tenant shall*

*(a) leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear...*

[49] Recently, the Island Regulatory and Appeals Commission (the "Commission") in Order LR25-02 commented on the importance of photographs at the beginning of the tenancy to establish a baseline condition of a rental unit. The 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."*

[50] In this case, the Landlord did not submit timestamped pre-tenancy photographs of the Unit or the Residential Property. The post-tenancy photographs that are submitted into evidence are not timestamped and the Landlord did not participate in the hearing to provide supporting testimony regarding the evidence. Further, the tenancy started in August 2023, the Landlord was required to complete a pre-tenancy inspection report and a post-tenancy inspection report under sections 18 and 38 of the Act.

[51] The Commission in Order LR25-12 commented on the importance of having a pre-tenancy and post-tenancy inspection. The Commission stated:

*"The Commission finds that the Landlord failed to comply with section 18 and section 38 statutory requirement for pre-tenancy and post-tenancy inspections. These requirements are in place to protect both landlords and tenants and to provide the Rental Office and the Commission with the best possible evidence of the condition of a rental unit at the start and at the end of the tenancy. A deterioration in the condition of the unit during the tenancy will then be more clearly apparent."*

[52] I find that without the required inspection reports (see subsections 18(3) and 38(3)), and without date and time stamped “before” and “after” photographs of the Unit, the Landlord has not established a baseline condition of the Unit. Therefore, the claims are denied.

**CONCLUSION**

[53] The tenancy agreement ended on January 31, 2025.

[54] The Tenant Application is allowed. The Landlord must pay the Tenant \$1,575.00 by the timeline below.

[55] The Landlord Application is denied.

**IT IS THEREFORE ORDERED THAT**

1. The tenancy agreement ended on January 31, 2025.
2. The Landlord must pay the Tenant \$1,575.00 by April 30, 2025.

**DATED** at Charlottetown, Prince Edward Island, this 26th day of March, 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.