

**INTRODUCTION**

- [1] The Landlord seeks to keep the security deposit and \$1,179.46 in compensation for cleaning and damage.
- [2] The Tenants seek a return of the security deposit and \$2,360.00 in compensation due to an overpayment of rent and the condition of the rental unit.

**DISPOSITION**

- [3] I find that the Landlord will pay the Tenants \$813.55.

**BACKGROUND**

- [4] The Unit is a part of a house (the "Residential Property") that the Landlord owns.
- [5] The parties dispute the start date of the tenancy. The parties agreed they had entered into a written, fixed-term tenancy until October 30, 2024, and then the tenancy agreement continued as a month-to-month agreement. Rent was \$1,800.00, due on the first day of the month. A \$1,800.00 security deposit was paid at the beginning of the tenancy.
- [6] The Tenants moved out of the Unit on November 30, 2024, and the tenancy ended by mutual agreement.
- [7] On December 4, 2024, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* with the Residential Tenancy Office (the "Rental Office") seeking to keep the security deposit and compensation for cleaning and damage.
- [8] On December 17, 2024, the Landlord filed an amended *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Rental Office. The Landlord Application seeks to keep the security deposit and \$1,179.46 in compensation for cleaning and damage.
- [9] On January 6, 2025, the Rental Office emailed the parties notice of a teleconference hearing scheduled for February 13, 2025.
- [10] On February 4, 2025, the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office, seeking a return of the security deposit and \$2,360.00 in compensation due to an overpayment of rent and condition of the Unit.
- [11] On February 11, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for March 4, 2025.
- [12] On February 24, 2025, the Rental Office emailed the parties a 127-page evidence package, which also contained two video links of the Unit provided by the Landlord.
- [13] On March 4, 2025, the Landlord, the Tenants, and two Tenant witnesses participated in a teleconference hearing. The parties confirmed receipt of the evidence package and stated that everything submitted to the Rental Office was included.

**ISSUES**

- A. Must the Tenants compensate the Landlord for cleaning and damage?
- B. Must the Landlord compensate the Tenants for an overpayment of rent and the condition of the Unit?

**ANALYSIS****A. Must the Tenants compensate the Landlord for cleaning and damage?**

- [14] The Landlord stated that she is seeking to keep the security deposit and compensation of \$1,179.46 for cleaning and damage. The Landlord's claimed expenses are as follows:

Item	Cost
Cleaning	\$1,167.00
Bedding, mats, air fresheners	\$142.46
Damaged furniture	\$450.00
Rug replacement	\$170.00
Wall repair	\$500.00
Mirror and vanity	\$150.00
Damaged dishes and pots	\$400.00
Total	\$2,979.46

- [15] The Landlord stated the Unit was professionally cleaned before the Tenants moved in and had new carpets, new countertops, new bedding, new curtains, and freshly painted walls. The Landlord stated that the videos she submitted as evidence were taken by her realtor approximately one year before the Tenants moved in; however, no one lived in the Unit until the Tenants moved in. The Landlord stated that an individual lived in the other part of the Residential Property when the Unit was empty and completed some repairs in the Unit during that time.
- [16] The Landlord stated that when the Tenants moved out, the Unit was dirty and unsanitary, and it smelled poor. The appliances were not clean, there were grease stains in the kitchen, and some dishes and pots were damaged. The Landlord stated that the carpets and floors were stained and dirty. There were drawings on the door and walls in permanent marker, as well as fingerprints and marks on other walls. The bathroom was unclean, and the couch and chairs were stained and damaged. There was garbage in the yard and the shed, which was not disposed of, but the Tenants later disposed of some of the garbage.
- [17] The Landlord submitted invoices for cleaning, bedding, mats, and air fresheners. The Landlord stated she had replaced the rug but had not submitted an invoice. The Landlord provided her estimates for the damaged furniture, wall repair, mirror, vanity, and damaged dishes and pots.
- [18] The Landlord stated that two videos of the Unit before the Tenants moved in and photos of the Unit after the Tenants moved out were submitted as evidence. The parties inspected the Unit before the Tenants moved in, and the Landlord completed a *Form 5 Landlord Condition Inspection Report*, which the Tenants had signed. The Landlord stated that she had completed a move-out inspection report with one of the Tenants, but the Tenants refused to sign it.
- [19] The Tenants denied that the Unit was dirty or damaged when they moved out. They stated that the Unit was not cleaned before they moved in. They denied the garbage in the shed belonged to them. They stated their children may have marked the walls a bit, but there was no damage. They stated that there was some water leakage and mold, and they cleaned the Unit before moving out. One of the Tenants' witnesses stated that he helped the Tenants clean.
- [20] The Tenants argued that the Landlord's videos were a year old when they moved in and that other individuals could have lived in the Unit during that time. The Tenants noted some discrepancies between the videos and photographs, such as some tiles and a bed. One of the Tenants' witnesses stated that he observed people coming and going from the Unit before the Tenants lived there.

**Cleaning**

- [21] Clause 39(2)(a) of the *Residential Tenancy Act* (the “Act”) states that when a tenant moves out of a rental unit, the tenant is required to leave the rental unit “*reasonably clean*.” I find that the evidence, specifically the move-out photographs and move-out inspection report, establishes that the Tenants left the Unit below the standard of “reasonably clean” when they moved out of the Unit.
- [22] The Landlord’s invoice indicates that 8 hours of cleaning for two people, as well as sofa, carpet and rug cleaning, and garbage removal, were required. I find that the Landlord’s cleaning invoice is reasonable based on the evidence submitted. The claim of **\$1,167.00** for cleaning is allowed.

**Damage**

- [23] In Order LR24-064, 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.*

- [24] In this case, the Landlord submitted two videos of the Unit from before the Tenants moved in, a move-in inspection report, a move-out inspection report, as well as photographs of the Unit after the Tenants moved out.
- [25] The Landlord testified that she had replaced the rug but did not submit a receipt as evidence. I accept the Landlord’s oral testimony regarding the rug replacement, and the **\$170.00** compensation claim is allowed.
- [26] The Landlord stated that all the other repairs and replacements were based on her own estimates. There is insufficient evidence establishing that the Landlord has repaired or replaced the other items claimed. As such, I have limited evidence to establish the loss suffered or expense incurred by the Landlord.
- [27] Therefore, I find that the Landlord has not provided sufficient evidence to establish that the Tenants must compensate the Landlord for the rest of the alleged damages or repairs. The remainder of the Landlord’s compensation claims are denied.

**B. Must the Landlord compensate the Tenants for an overpayment of rent and the condition of the Unit?**

**Pro-rated rent**

- [28] The Tenants stated that they are seeking \$360.00 (6 days x \$60.00) in compensation for six days of pro-rated rent. They stated that although the tenancy agreement was signed on October 16, 2023, they were not provided the keys until October 20, 2023. The Landlord started charging the Tenants rent on October 15, 2023, so the Tenants are looking to have the overpayment of rent returned.
- [29] The Landlord stated that on October 15, 2023, a representative from the Tenants’ company asked the Landlord to hold the Unit so the Tenants could rent it, and the tenancy agreement was signed on October 16, 2023. Although the Tenants did not get the keys to the Unit until October 20, 2023, the Landlord stated she should be entitled to rent owed from October 15-19, 2023, because she was asked not to rent the Unit to anyone else. The Landlord stated that the Tenants paid \$900.00 in rent for October 15-31, 2023.

[30] Subsection 1(w) of the Act states:

*“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and the provision of services and facilities.*

[31] Although the tenancy agreement was signed on October 16, 2023, the parties agreed that the Tenants did not have possession of the Unit until October 20, 2023. As such, I find that the evidence establishes that the tenancy between the parties did not begin until October 20, 2023.

[32] I find that the Tenants are not responsible for rent owed from October 15-19, 2023, because they did not have possession of the Unit during this time. The Landlord will pro-rate the rent and pay the Tenants **\$290.32** (5 days / 31 days x \$1,800.00).

### Compensation

[33] The Tenants stated they are seeking compensation of \$2,000.00 for losses and suffering throughout the tenancy. They stated that the Unit was old, and some of their personal property was damaged by leaking water and humidity. The Tenants stated they had to pay for additional oil because the Unit was old. Repairs were needed to the Unit, but these were not addressed. Messages between the parties and photographs of the Unit were submitted as evidence.

[34] The Landlord denied that there were any significant issues with the Unit. She stated that repairs were always addressed when the Tenants notified the Landlord.

[35] Subsection 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] Subsection 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 Tenants have the burden of proof to establish their claim on a balance of probabilities. I find that the Tenants have not provided sufficient evidence to establish that the Landlord has breached the Act or the Regulations or failed to address necessary repairs in a reasonable timeframe once they were brought to the Landlord's attention. These claims are denied.

[38] Furthermore, the Rental Office does not have jurisdiction to award money for pain or suffering.

### CONCLUSION

[39] The parties' claims are offset. My calculations are as follows.

Item	Cost
Cleaning	\$1,167.00
Rug replacement	\$170.00
Pro-rated rent	(\$290.32)
Security Deposit	(\$1,800.00)
Interest (Oct. 20/23 – Mar. 28/24)	(\$60.23)
Total	\$813.55

**IT IS THEREFORE ORDERED THAT**

1. The Landlord will pay the Tenants \$813.55 by April 28, 2025.

**DATED** at Charlottetown, Prince Edward Island, this 28th day of March, 2025.

(sgd.) Mitch King

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**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.