

INTRODUCTION

- [1] The Landlord seeks to keep a portion of the security deposit for rent owing, in the amount of \$601.50.
- [2] The Tenant seeks the return of the full amount of the security deposit.

DISPOSITION

- [3] The Landlord must return the security deposit, including interest, in the amount of \$1,211.06.

BACKGROUND

- [4] The Unit is a two-bedroom and one-bathroom apartment, located in an 18-unit building (the "Residential Property").
- [5] On December 15, 2024, the Tenant submitted a rental application to the Landlord.
- [6] On December 17, 2024, the Tenant's rental application was approved.
- [7] On December 19, 2024, the Tenant viewed the Unit with the Landlord's representatives (the "Representatives"). After the viewing, the Representatives emailed the Tenant stating the following:

"It was great meeting you today! See below for the list of what is required prior to signing the one-year lease agreement beginning January 1, 2025:

1) Security Deposit in the amount of one month's rent \$1,203.00 sent via e-Transfer to this email ...

2) Proof of tenant insurance...

3) Proof of electricity set up in your name for the apartment.

Once we have received all of the above I can send you a copy of the lease agreement to review. Once reviewed we can schedule a time for you to come into the office and sign the agreement in person."

- [8] On December 20, 2024, the Tenant paid a \$1,203.00 security deposit.
- [9] On December 27, 2024, the Landlord's representatives (the "Representatives") emailed the Tenant a copy of the tenancy agreement for review. The tenancy agreement had a fixed-term for the period of January 1, 2025 to December 31, 2025. Rent was \$1,203.00 due on the first day of the month.
- [10] The Tenant responded to the Representatives requesting to move into the Unit earlier than January 1, 2025 because of an emergency. The Unit was not available earlier and the Tenant informed the Representatives that he would not be moving into the Unit.
- [11] On January 8, 2025, the Representatives filed an amended *Form 2(B) Landlord Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office") seeking to keep a portion of the security deposit for rent owing.
- [12] On January 9, 2025, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for February 13, 2025.
- [13] On February 6, 2025, the Rental Office mailed and emailed the parties an updated notice of a teleconference hearing scheduled for February 25, 2025.
- [14] On February 11, 2025, the Rental Office emailed the parties a 14-page PDF document (the "Evidence Package").

- [15] On February 21, 2025, the Rental Office mailed and emailed the parties a new updated notice of a teleconference hearing scheduled for March 27, 2025.
- [16] On March 27, 2025, the Representatives and the Tenant joined the teleconference hearing. The parties confirmed they received the Evidence Package. The Representatives confirmed that all evidence submitted to the Rental Office was included. The Tenant stated that the documents he submitted were not included.
- [17] The Tenant submitted 16-pages into evidence which were provided to the Representatives at the beginning of the hearing.

ISSUE

- A. Has the Landlord established a valid claim to keep a portion of the security deposit?

ANALYSIS & FINDINGS

- [18] The Representatives seek to keep \$601.50 from the security deposit because the Tenant did not give sufficient notice. The Representatives testified that a new tenant was found to rent the Unit on January 15, 2025. Therefore, they are only seeking to keep half the security deposit to cover half of January 2025's rent.
- [19] The Tenant disputed the Landlord's claim for keeping the security deposit. The Tenant testified that he needed the Unit before January 1, 2025 because his existing rental unit was infested with bed bugs and he needed to vacate the rental unit immediately. The Tenant testified that he found another rental unit and let the Representatives know that he would not be able to rent the Unit.
- [20] The Tenant stated that he did not sign the tenancy agreement. The Tenant stated that he believed he needed to complete the three requirements provided to him in the December 19, 2024 email. The Tenant stated that he only completed the first request – paying the security deposit.
- [21] I have reviewed the parties' evidence and I find that the Landlord must return the security deposit, including interest to the Tenant, in the amount of \$1,211.06.
- [22] Sections 13 and 15 of the *Residential Tenancy Act* (or the "Act") state:
- The rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant occupies the rental unit.*
- A landlord shall not*
- (a) require a security deposit at any time other than when the landlord and tenant enter into the tenancy agreement;*
- [23] In this case, the Landlord requested payment of the security deposit before providing the Tenant a copy of the tenancy agreement. The Tenant paid the security deposit on December 20, 2024, and then on December 27, 2024, the tenancy agreement was forwarded to the Tenant for review. The Tenant never signed the tenancy agreement because his circumstances changed, and he was no longer able to rent the Unit.
- [24] The best practice would have been that the Tenant be provided a copy of the tenancy agreement to review and sign. Then the Tenant would pay the security deposit and fulfill any other requirements the Landlord may have prior to occupancy.
- [25] I note that the Tenant did not obtain tenant insurance or put the Unit's electricity into his name, which were two requirements prior to signing the tenancy agreement.

- [26] Further, I note that in Orders LR24-47 and LR25-10, the Island Regulatory and Appeals Commission found on similar facts that a landlord had to return a security deposit because the parties did not have a signed written tenancy agreement (see subsection 11(1) of the Act) and the tenant never moved into the rental unit.
- [27] I find that the Application is denied, and the Landlord must pay the Tenant the security deposit, including interest, in the amount of \$1,211.06 by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$1,211.06 by April 30, 2025.

DATED at Charlottetown, Prince Edward Island, this 31st day of March, 2025.

(sgd.) Cody Burke

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.