

INTRODUCTION

- [1] This decision determines two applications filed with the Residential Tenancy Office (“Rental Office”) under the *Residential Tenancy Act* (“Act”).
- [2] The Tenants are seeking the return of the security deposit. This claim also includes the accrued interest and compensation of double the security deposit.
- [3] The Landlord is seeking compensation for rent owing and cleaning, in the total amount of \$1,700.00.

DISPOSITION

- [4] The Landlord must return to the Tenants the security deposit, including interest and double the security deposit, in the total amount of \$2,876.66. The Tenants must compensate the Landlord for rent owing and cleaning, in the total amount of \$1,500.00. This amount is offset against the Tenants’ claim. The Landlord must pay the Tenants \$1,376.66.

BACKGROUND

- [5] The Unit is a two-bedroom and one-bathroom rental unit located in one side of a side-by-side duplex, owned by the Landlord.
- [6] The tenancy agreement was a written, fixed-term agreement for the period of March 1, 2023 to February 28, 2024. At the end of the fixed-term the tenancy continued on a monthly basis. Only one of the Tenants’ names was specified in the tenancy agreement; however, the parties agreed that the tenancy agreement included all three of the Tenants.
- [7] Rent was \$1,400.00 due on the first day of the month and a \$1,400.00 security deposit was paid in February of 2023.
- [8] On November 1, 2024 the Tenants vacated the Unit and the parties disagree when the tenancy ended.
- [9] On December 5, 2024 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (“Tenant Application”) with the Rental Office seeking the return of the security deposit.
- [10] On January 16, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for February 4, 2025.
- [11] On January 27, 2025 the Landlord’s representative (“Representative”) filed a *Form 2(B) Landlord Application to Determine Dispute* (“Landlord Application”) with the Rental Office seeking compensation for rent owing and cleaning.
- [12] The Tenant Application and the Landlord Application are collectively referred to as “Applications.”
- [13] On March 28, 2025 the Rental Office mailed and emailed the parties an updated notice of a teleconference hearing scheduled for April 29, 2025.
- [14] On April 17, 2025 the Rental Office emailed the parties a 116-page evidence package.
- [15] The April 29, 2025 hearing was postponed.
- [16] On May 2, 2025 the Rental Office mailed and emailed the parties a new updated notice of a teleconference hearing scheduled for May 20, 2025.

- [17] On May 20, 2025 one of the Tenants ("Tenant") and the Representative joined the hearing for determination of the Applications. The Tenant represented the Tenants at the hearing. The parties confirmed receipt of the evidence package and that all evidence sent to the Rental Office was included.

ISSUES

- A. Must the Landlord return the security deposit, including interest to the Tenant and compensate the Tenant double the security deposit?
- B. Has the Landlord established claims against the Tenant for rent owing and cleaning?

ANALYSIS & FINDINGS

- A. Must the Landlord return the security deposit, including interest to the Tenant and compensate the Tenant double the security deposit?**

The Security Deposit

- [18] Section 40 of 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.*

- [19] The evidence establishes that the tenancy agreement's term was on a monthly basis. The parties disputed when the Tenants gave the Landlord notice to vacate the Unit.

- [20] The Tenant stated that one of the Tenants had an oral conversation with the Representative at the end of September 2024 about vacating the Unit on November 1, 2024.

- [21] The Representative disputed that this oral conversation happened. The Representative stated that the Tenants gave notice on October 17, 2024 by text message. The Representative stated that the Landlord was unable to re-rent the Unit due to the Tenants' insufficient notice and the Tenants did not return the Unit's keys until November 6, 2024.

- [22] I note that the tenant who allegedly had the oral conversation with the Representative did not participate in the hearing to give direct evidence about this conversation. Further, the Tenants did not submit any direct or objective evidence to support that notice was given to the Landlord at the end of September 2024.
- [23] I find that the Landlord's evidence establishes that the Tenants gave notice to the Representative on October 17, 2024 by text message. The Tenants then vacated the Unit on November 1, 2024.
- [24] I further find that the tenancy ended on November 30, 2024.
- [25] The Landlord Application was not filed until January 27, 2025. The Landlord did not return the security deposit to the Tenants and the Landlord did not file an application to keep the security deposit with the Rental Office within fifteen days from the end of the tenancy.
- [26] Further, there are no earlier Rental Office decisions authorizing the Landlord to keep the Tenants' security deposit and there was no written agreement permitting the Landlord to keep the security deposit.
- [27] I find that the Landlord did not comply with the legislated section 40 requirements for keeping a security deposit. Therefore, by operation of law, the Landlord must return the security deposit, including interest and the Landlord must compensate the Tenant double the security deposit under subsection 40(4) of the *Act*.
- [28] I note that the Tenant Application states: "*Refund request - \$1400.*"
- [29] During the hearing, I asked the Tenant if the Tenants were seeking compensation for double the security deposit. The Tenant stated that the Tenants were not seeking double the security deposit and only wanted their money back and not the Landlord's own money.
- [30] Despite the Tenant's submission, I note that the Tenants selected on the Tenant Application: *To request the return of the security deposit (RTA permits potential double the amount of the security deposit)*.
- [31] The Tenants are only seeking \$1,400.00. Due to the offsets below, I find that the Tenants will be paid \$1,376.66, less than the requested amount.
- [32] I find that the Tenants are lawfully entitled to compensation of double the security deposit, including interest on the principal amount (see subsection 14(9)).
- [33] The Tenant Application is allowed, and the Landlord must compensate the Tenant as calculated below.

Item	Amount
Security Deposit	\$1,400.00
Interest (06 FEB 2023 to 22 MAY 2025)	\$76.66
Security Deposit (Double Awarded)	\$1,400.00
Total	\$2,876.66

B. Has the Landlord established claims against the Tenant for rent owing and cleaning?

Rent Owing & Cleaning

- [34] The Landlord is seeking \$1,700.00 for rent owing and cleaning.

- [35] For the reasons above, I find that the parties were in a monthly tenancy agreement and the Tenants gave the Landlord notice on October 17, 2024 and the tenancy agreement end on November 30, 2024.
- [36] I find that the Tenants did not give sufficient notice to the Landlord under subsection 55(2) of the *Act*.
- [37] As a result, the Tenants owe the Landlord November 2024's rent, in the amount of \$1,400.00.
- [38] The Representative stated that the Unit required cleaning and garbage removal. This caused the Unit to be unavailable to re-rent for November 2024. The Representative stated that she was out of country in December 2024 and did not begin advertising the Unit until January 2025.
- [39] In this case, I find that the Landlord sufficiently mitigated losses for November's rent under section 46 of the *Act*. This claim is allowed in the amount of \$1,400.00.
- [40] Clause 39(2)(a) of the *Act* states:
- (2) *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.*
- [41] The Representative submitted photographs of the Unit taken on November 6, 2024, and a receipt dated November 15, 2024 for \$300.00 stating: "Deep cleaning fee for the [Unit]."
- [42] The Tenant stated that the Unit was unclean at the start of the tenancy. The Tenant stated that the Unit was cleaned before they vacated. The Tenant stated that the items left in the Unit were owned by the Tenants.
- [43] I note that there is no evidence submitted to determine the baseline condition of the Unit. I further note that the Landlord and the Tenants did not have to complete a pre-tenancy and post-tenancy inspection report under section 109 of the *Act*. Although these reports would have been helpful in this case.
- [44] I find that the Landlord's evidence establishes that at the end of the tenancy, the Unit was below the standard of reasonably clean and that garbage and the Tenants' items were left in the Unit.
- [45] However, I note that the Landlord submitted a receipt for \$300.00 which stated "deep clean." A tenant is not expected to leave a rental unit in a professionally clean condition. This standard is higher than the reasonably clean standard required under clause 39(2)(a) of the *Act*. Therefore, I adjust the Landlord's cleaning claim to \$100.00 based upon the documentary evidence submitted. This claim is allowed in part, in the amount of \$100.00.
- [46] The Landlord Application is allowed in part.

CONCLUSION

- [47] The Tenant Application is allowed; the Tenants have established a valid claim in the amount of \$2,876.66.
- [48] The Landlord Application is allowed in part. The Landlord established a valid claim in the amount of \$1,500.00.
- [49] Due to the offset in this Order, the Landlord must compensate the Tenant \$1,376.66 by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlord will pay the Tenant \$1,376.66 by June 23, 2025.

DATED at Charlottetown, Prince Edward Island, this 22nd day of May, 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.