

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office (the “Rental Office”) under the *Residential Tenancy Act* (the “Act”).
- [2] The Landlord seeks an order to keep the Tenant’s security deposit, including interest, for rent owing for a total claim of \$2,015.22.

DISPOSITION

- [3] The Landlord will keep \$1,323.71 of the Tenant’s security deposit for rent owing.
- [4] The Landlord will return the balance of the security deposit, including interest, totalling \$691.38 to the Tenant.

BACKGROUND

- [5] The Unit is an apartment in a multi-unit building (the “Residential Property”).
- [6] The parties entered into a written fixed-term tenancy agreement for the Unit, effective from April 1, 2025, to March 31, 2026. Rent of \$1,995.00 was due on the first day of each month, and a security deposit of \$1,995.00 was paid on March 17, 2025.
- [7] On April 20, 2025, the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of May 9, 2025 (the “Notice”) for non-payment of \$995.00 for April 2025’s rent.
- [8] On May 26, 2025, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Application”) with the Rental Office seeking rent owing and vacant possession of the Unit and for the Sheriff to put the Landlord in possession.
- [9] On June 6, 2025, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for June 19, 2025.
- [10] On June 13, 2025, the Rental Office emailed a 28-page PDF (the “First Evidence Package”) to the parties.
- [11] On June 19, 2025, the Landlord and the Tenant called into the hearing. The Landlord asked to postpone the hearing until June 24, 2025, to try to resolve the matter with the Tenant.
- [12] On June 20, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for June 24, 2025.
- [13] On June 24, 2025, the Landlord requested to postpone the hearing until July 8, 2025, as the parties were still trying to resolve the matter.
- [14] On June 24, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for July 8, 2025.
- [15] On June 27, 2025, the Rental Office emailed an updated 28-page PDF (the “Second Evidence Package”) to the parties.
- [16] On July 4, 2025, the Rental Office emailed the parties updated conference call details.
- [17] On July 7, 2025, the Landlord requested to postpone the hearing as the parties were still trying to resolve the matter.

- [18] On July 14, 2025, the Landlord notified the Rental Office that the parties were unable to resolve the matter.
- [19] On July 22, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for August 7, 2025.
- [20] On August 1, 2025, the Rental Office emailed an updated 28-page PDF (the "Third Evidence Package") to the parties.
- [21] On August 2, 2025, the Tenant moved out of the Unit. Therefore, I do not need to make a determination regarding vacant possession of the Unit.
- [22] On August 7, 2025, the Landlord called into the teleconference hearing. I telephoned the Tenant, but there was no answer. I left a voicemail, but the Tenant did not call into the hearing.
- [23] The hearing proceeded in the Tenant's absence about ten minutes after the scheduled time. The Landlord confirmed receipt of the evidence packages and stated that all evidence that he submitted to the Rental Office was included.

ISSUE

- A. Does the Tenant owe the Landlord rent, and can the Landlord keep the Tenant's security deposit?

ANALYSIS

- [24] The Landlord's evidence is as follows.
- [25] The Tenant did not pay rent in full for April 2025, and \$995.00 was still outstanding when he served the Notice on April 20, 2025. The Tenant paid the remainder of April's rent on May 9, 2025.
- [26] The Tenant did not pay rent for June 2025 on time, and the Landlord served another eviction notice on June 5, 2025. Rent for June 2025 was paid in full on June 23, 2025. The Landlord did not submit a copy of this eviction notice as evidence.
- [27] On July 4, 2025, the Tenant paid \$800.00 for July 2025's rent, leaving a balance of \$1,195.00 still owing.
- [28] On August 2, 2025, the Tenant notified the Landlord that she was moving out of the Unit that day, because the rent was too expensive for her. The Landlord regained possession of the Unit on August 3, 2025. The Landlord has advertised the Unit in an attempt to re-rent it.
- [29] The Landlord is seeking to keep the security deposit for rent owing for July 2025 (\$1,195.00) and August 2025 (\$1,995.00), as the Landlord stated that the Tenant failed to provide proper notice to terminate the fixed-term tenancy agreement. The Landlord stated that he was not seeking compensation above the security deposit.
- [30] The Landlord's reason in the Notice for terminating the tenancy is under subsection 60(1) of the Act, which states
- A landlord may end a tenancy if rent is unpaid after the day it is due, by giving a notice of termination effective on a date that is not earlier than 20 days after the date the tenant receives the notice.*
- [31] I find that the evidence establishes that the Tenant did not pay the outstanding rent for April 2025 within ten days of the Notice being served. Furthermore, the Tenant did not file an application disputing the Notice.

- [32] The evidence does not establish that the Notice was waived, the tenancy was reinstated, or a new tenancy was created under section 74 of the Act, which states:

(1) A landlord is entitled to compensation for a former tenant's use and occupation of the rental unit after the tenancy has been terminated.

(2) The acceptance by a landlord of arrears of rent or compensation for use or occupation of the rental unit after notice of termination of tenancy has been given does not operate as a waiver of the notice, as reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree in writing.

(3) The burden of proof that a notice of termination has been waived or the tenancy has been reinstated or a new tenancy created is on the person so claiming.

- [33] I find that the Tenant was overholding from May 9, 2025, until August 2, 2025, and vacated the Unit due to the Notice.

- [34] Therefore, I find that the end of the tenancy was August 2, 2025, and the Tenant does not owe the Landlord rent after this date.

CONCLUSION

- [35] The security deposit, including interest, totals \$2,015.09.
- [36] The Tenant owes the Landlord \$1,195.00 in rent for July 2025.
- [37] The Tenant owes the Landlord \$128.71 in rent for August 1-2, 2025, (2 days / 31 days x \$1,995.00).
- [38] The Landlord will keep \$1,323.71 (\$1,195.00 + \$128.71) of the security deposit and return the remaining balance, including interest, totalling \$691.38.

IT IS THEREFORE ORDERED THAT

1. The Landlord will keep \$1,323.71 of the security deposit
2. The Landlord will return the balance of the security deposit, including interest, totalling \$691.38, to the Tenant by September 11, 2025.

DATED at Charlottetown, Prince Edward Island, this 11th day of August, 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.