

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office ("Rental Office") under the *Residential Tenancy Act* ("Act").
- [2] The Tenants seek an order requiring the Landlord to pay double the security deposit and return the balance of the security deposit, in the amount of \$3,690.00.

DISPOSITION

- [3] I find that the Landlord must pay the Tenant double the security deposit on the amount not returned, and also return the balance kept, in the total amount of \$180.00.

BACKGROUND

- [4] The Unit is a three-bedroom, two-bathroom townhouse, owned by the Landlord and operated by a property management company.
- [5] There were three tenants: ("A.B.", "E.S.", and "J.G.").
- [6] On February 5, 2024 the parties entered into a written, fixed-term tenancy agreement for the period of May 1, 2024 to April 30, 2025. Rent in the amount of \$2,700.00 was due on the first day of the month. The Tenants paid a \$2,700.00 security deposit at the start of the tenancy.
- [7] On April 15, 2025 the Tenants vacated the Unit. The tenancy ended on April 30, 2025 by mutual agreement.
- [8] On May 20, 2025 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* ("Application") with the Rental Office seeking the return of the remaining balance of the security deposit and double the security deposit. On June 12, 2025 the Application was amended to include the names of E.S. and J.G.
- [9] On August 12, 2025 the Rental Office emailed J.G. regarding the status of her involvement with the Application. On August 19, 2025 J.G. stated that she did not want to proceed or be part of the Application. J.G. stated that "*she received her security deposit back.*"
- [10] In this decision, the Tenants are A.B. and E.S. and the determination is based on their portion of the security deposit (\$1,800.00 or \$900.00 each).
- [11] On August 20, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for September 9, 2025, along with a copy of the Application.
- [12] On September 5, 2025 the Rental Office emailed the parties a 98-page PDF evidence package.
- [13] On September 9, 2025 the Tenants, the Landlord's representative ("Representative") and the Landlord's witness joined the teleconference hearing for determination of the Application. The parties confirmed that they received the evidence package and confirmed that all evidence submitted to the Rental Office was included in the evidence package.

ISSUE

- A. Must the Landlord return double the security deposit to the Tenants?

ANALYSIS**Legal Basis**

[14] 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.*

[15] The Island Regulatory and Appeals Commission in Order LR25-20 made the following comments regarding section 40 of the *Act*, stating (paragraph 16):

"These are mandatory provisions and neither the Rental Office nor the Commission has discretion to vary these provisions."

Summary of the Evidence

- [16] The evidence establishes that on May 12, 2025 the Landlord attempted to return a portion of the security deposit, including interest to the Tenants. The Representative's evidence establishes that, in error, a cheque was issued to the Tenants. However, on May 16, 2025, once the error was noticed, the cheque was cancelled and the Landlord e-Transferred the Tenants \$875.95 each.
- [17] The Representative stated that \$45.00 from each of the Tenants was kept for cleaning expenses. The Landlord's evidence included a screenshot of the Tenants' Statement on the software used by the Landlord. The screenshot showed that the cheque was cancelled and on May 16, 2025 three e-Transfers were sent to the Tenants and J.G., in the amount of \$875.95.
- [18] The Representative stated that the security deposit, including interest totaled \$2,762.86. This equaled \$920.95 for each of the Tenants and J.G. The Representative stated that the Landlord deducted \$45.00 and returned \$875.95 to the Tenants and J.G.
- [19] The Representative stated that it was a mistake and was not the Landlord's intention to keep the Tenants' security deposit. The Representative stated that there was damage in the Unit, but the Landlord chose to not make any deductions for the damage.

- [20] The Tenants stated that the Landlord did not comply with subsection 40(1) of the *Act*. The Tenants stated that they did not agree that the Landlord could keep any amount from the security deposit and that they did not receive an application from the Landlord. The Tenants stated that they did not receive a copy of the end of tenancy inspection report.

Determination

- [21] I find that the evidence establishes that the tenancy ended on April 30, 2025. That means the Landlord had until May 15, 2025 to return the security deposit or file an application with the Rental Office.
- [22] I find that the evidence establishes that on May 12, 2025 the Landlord issued a cheque to the Tenants returning a portion of the security deposit.
- [23] Subsection 40(5) of the *Act* provides the methods of repayment of the security deposit, stating:
- For the purpose of clause (1)(a), the landlord shall repay a deposit*
- (a) *by sending a cheque by ordinary or registered mail to an address provided by the tenant, if any;*
- (b) *by giving the deposit personally to the tenant; or*
- (c) *by using any form of electronic payment or transfer to the tenant.*
- [24] I find that the Landlord's evidence establishes that the Landlord complied with subsection 40(1) of the *Act* regarding returning \$875.95 to the Tenants. The Landlord sent the cheque to the Tenants on May 12, 2025. This was a method permitted under clause 40(5)(a) of the *Act*. Further, the Landlord's evidence establishes that the issuance of the cheque was within the 15-day period required under subsection 40(1) of the *Act*.
- [25] I note that subsection 40(1) of the *Act* only required the Landlord to issue payment as permitted under subsection 40(5). This means that a landlord can issue the payment and be in compliance with subsection 40(1), despite the money not being received or deposited into a tenants account.
- [26] Despite the cheque being cancelled and an e-Transfer being sent to the Tenants on May 16, 2025, I find that the Landlord was still in compliance with subsection 40(1) of the *Act* for this portion of the security deposit.
- [27] However, I find that the Landlord did not comply with subsection 40(1) of the *Act* regarding deducting and keeping \$90.00 (\$45.00 each) from the Tenants' security deposit. The Landlord did not file an application with the Rental Office within 15-days to request keeping a portion of the security deposit.
- [28] There are no earlier Rental Office decisions authorizing the Landlord to retain the security deposit under subsection 40(2).
- [29] The parties did not come to a written agreement that the Landlord could retain the security deposit and there is no Rental Office order under subsection 40(3).
- [30] As a result, the Landlord must pay the Tenants double the security deposit on the portion kept by the Landlord in accordance with subsection 40(4). The Landlord must also return the portion of the security deposit kept.
- [31] The Landlord must pay the Tenants \$180.00 (or \$90.00 each) by the timeline below, calculated as follows:
- \$45.00 + \$45.00 (double the security deposit) = \$90.00 for A.B.
 - \$45.00 + \$45.00 (double the security deposit) = \$90.00 for E.S.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay A.B. \$90.00 by October 10, 2025.
2. The Landlord must pay E.S. \$90.00 by October 10, 2025.

DATED at Charlottetown, Prince Edward Island, this 10th day of September, 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.