

**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 claims against the Tenant’s security deposit for rent owing from June 1 to 22, 2025.

**DISPOSITION**

- [3] The Landlord’s rent owing claim is denied. The Landlord must return to the Tenant the security deposit balance, in the amount of \$1,144.83.

**BACKGROUND**

- [4] The Landlord and the Tenant entered into a written, fixed-term tenancy agreement for the Unit from September 15, 2024 to September 30, 2025 (the “Tenancy Agreement”). A security deposit of \$1,550.00 was paid near the beginning of the tenancy. Rent in the amount of \$1,550.00 was due on the first day of the month.
- [5] On April 23, 2025 the Tenant text-messaged the Landlord’s representative (the “Representative”) stating that the Tenant would need to vacate the Unit before the end of the fixed-term.
- [6] On or about May 25, 2025 the Tenant vacated and left the keys in the Unit.
- [7] On May 29, 2025 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Application”) with the Rental Office seeking to keep the Tenant’s security deposit for rent owing.
- [8] On May 29, 2025 the Landlord also returned to the Tenant \$440.22 of the security deposit funds.
- [9] On August 21, 2025 the Rental Office sent the parties notice of a teleconference hearing scheduled for September 23, 2025.
- [10] On September 18, 2025 the Rental Office sent the parties a 15-page evidence package.
- [11] On September 23, 2025 the Representative and the Tenant joined the teleconference. The parties confirmed that they received the evidence package and that all evidence submitted to the Rental Office was included. The parties were permitted to submit additional evidence after the hearing.

**ISSUE**

- A. Can the Landlord keep the Tenant’s security deposit balance for rent owing?

**ANALYSIS**

- [12] For the reasons below, I find that the Landlord cannot keep the Tenant’s security deposit balance.

**Mandatory Tenancy Agreement Information**

- [13] Landlords are required to prepare written tenancy agreements. When residential rental issues arise, the first place landlords and tenants commonly check are the provisions of their written tenancy agreements.
- [14] Sections 10 and 11 of the *Act* set out the required content of tenancy agreements.

[15] In particular, subsection 11(2) states:

*The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*

- (a) the provisions set out in Division 4;*
- (b) the correct legal names of the landlord and tenant;*
- (c) the address of the rental unit;*
- (d) the date the tenancy agreement is entered into;*
- (e) the address for service and telephone number of the landlord, or the landlord's agent, and the tenant;*
- (f) the services and facilities included in the rent;*
- (g) the amount of rent that was charged, and the services and facilities that were provided, to the previous tenant of the rental unit, unless there was no previous tenant;*
- (h) the name and contact information of any person the tenant is to contact for emergency repairs; and*
- (i) the agreed terms in respect of*
  - (i) the date on which the tenancy starts,*
  - (ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis,*
  - (iii) if the tenancy is a fixed-term tenancy, the date on which the term ends,*
  - (iv) the amount of rent payable for a specified period,*
  - (v) the day on which the rent is due and the frequency of payment, and*
  - (vi) the amount of any security deposit and the date the security deposit was or is required to be paid.*

[16] Landlords are required to include Part 2, Division 4 (sections 19 to 37) in all written tenancy agreements.

[17] These sections inform tenants of their rights and responsibilities regarding many aspects of a typical landlord-tenant relationship during a tenancy. The inclusion of these provisions in tenancy agreements helps prevent confusion regarding the proper processes that landlords and tenants need to follow.

[18] Section 30 addresses rights, responsibilities and procedures for assigning and subletting tenancy agreements.

[19] In particular, subsections 30(1) and (2) essentially provide tenants with a right to sublet as follows:

*A tenant may, with the written consent of the landlord, sublet or assign a rental unit or part of a rental unit to another person.*

*A landlord shall not arbitrarily or unreasonably withhold consent to a sublet or assignment of a rental unit or part of it.*

[20] The Tenancy Agreement was entered into almost 15 months after the Act came into force. The Tenancy Agreement should have included these mandatory terms from Part 2, Division 4 of the Act.

[21] Instead, clause 3 at the bottom of the Tenancy Agreement states in part:

*"NO SUBLETTING , limited two adults,60 days notice to end tenancy..."*

[22] The Landlord could not validly prohibit subletting because this would conflict with section 30 of the Act.

- [23] The Tenant and the Representative had text-message correspondence on April 23, 2025, which states in part as follows:

Tenant

*"like if u don't get a tenant for may can i move on end of May? instead of end of June I'm also checking if from my side I get someone but serious one"*

Representative

*"No I have to find someone for June as well because it is less than 2 months"*

Tenant

*"OK"*

Representative

*"So you have to move at the end of June"*

Tenant

*"but if u get someone can I move on end of May please"*

*"for the deposit I'm OK we take it after June only"*

*"please if you can help us on it"*

Landlord

*"Yes I find someone for June you can move"*

Tenant

*"oh thanks so I can move on end of May right thank u so much for ur help"*

- [24] The Tenant stated that she was checking to find someone for the Unit and the Representative responded stating that the Representative has to find someone.
- [25] The Tenant had a right under the *Act* to sublet or assign the Unit with the Landlord's written consent, which could not be arbitrarily or unreasonably withheld.
- [26] It does not appear that the Landlord informed the Tenant of this right. Instead, the Landlord prepared a Tenancy Agreement which prohibited subletting. Further, when the Tenant offered to help find a replacement tenant the offer was declined.
- [27] The Tenant would have had about five weeks from April 23, 2025 to find a suitable subtenant or assignee to move into the Unit effective June 1, 2025.
- [28] The lost rental income for June 2025 could have been avoided if the Tenant was aware of the Tenant's right to sublet and assign and the Landlord had followed the rules outlined in section 30. As a result, the Landlord's claim for June 2025 rent is denied.
- [29] The Landlord must ensure that all tenancy agreement content complies with the *Act*.
- [30] The standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office's website.

**Mutual Agreement**

[31] The Tenant argued that the Landlord agreed to end the Tenancy Agreement effective May 31, 2025.

[32] The Representative argued that the agreement to end the Tenancy Agreement depended upon whether the Landlord was able to find a replacement tenant for June 2025. The Representative wrote:

*"...I never say she (tenant) don't need pay rent of June . I had explained need two months notice and I need find new tenants moving in . She can move out anytime, but conditions I had find new tenants occupying the unit. I had explaining very clearly. I never wrote formal termination lease..."*

[33] Subsection 51(3) of the Act states:

*A landlord and a tenant may make a written agreement, other than a tenancy agreement, to end a tenancy.*

[34] I have reviewed the evidence of the parties.

[35] In the text-message correspondence the Representative initially advised that the Tenant must pay rent for May and June. The Representative stated that the Tenant had to move out at the end of June.

[36] The Representative later stated *"Yes I find someone for June you can move."*

[37] Upon reviewing the earlier correspondence, this message was a change from the earlier position that the Tenant could only move out by the end of June. Based upon the content of the messages, it appears that the Representative was agreeing to the Tenancy Agreement ending May 31, 2025.

[38] Further, the Tenant responded to the Representative's message stating:

*"oh thanks so I can move on end of May right thank u so much for ur help"*

[39] This message shows the Tenant's understanding that the Tenant would not be responsible for June 2025 rent. There would be no point in thanking the Representative if the Tenant potentially remained responsible for June 2025 rent.

[40] If the Representative was still holding the Tenant potentially responsible for June 2025 rent, then the Representative should have immediately responded with a further message to the Tenant that the Tenant was mistaken and remained responsible for June 2025 rent.

[41] The absence of an immediate Representative response also indicates a mutual agreement to end the tenancy effective May 31, 2025.

[42] Therefore, I find that the Landlord must return the security deposit balance for a second reason. I find that the parties had a written agreement to end the Tenancy Agreement effective May 31, 2025.

**CONCLUSION**

[43] I find that the Landlord must return to the Tenant the security deposit balance in the amount of \$1,144.83 by the timeline below, calculated as follows:

| Item                                                | Amount     |
|-----------------------------------------------------|------------|
| Security deposit                                    | \$1,550.00 |
| Interest on \$1,550.00 (15 SEP 2024 to 28 MAY 2025) | \$26.00    |
| Interest on \$1,109.78 (29 MAY 2025 to 25 SEP 2025) | \$9.05     |
| Funds returned to the Tenant on 29 MAY 2025         | -\$440.22  |
| Balance                                             | \$1,144.83 |

**IT IS THEREFORE ORDERED THAT**

1. The Landlord must pay the Tenant the security deposit balance in the amount of \$1,144.83 by October 27, 2025.

**DATED** at Charlottetown, Prince Edward Island, this 25th day of September, 2025.

(sgd.) Andrew Cudmore

**Andrew Cudmore**  
**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.