

INTRODUCTION

- [1] This decision determines an application filed by the Tenants with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (or the "Act").
- [2] The Tenants seek an Order requiring the Landlord to pay double the security deposit, in the amount of \$580.00.

DISPOSITION

- [3] The Landlord must pay the Tenants double the security deposit, in the amount of \$580.00.

BACKGROUND

- [4] The Unit is a two-bedroom, one-bathroom apartment in a twenty-six-unit building (the "Residential Property") owned by the Landlord since December 2023.
- [5] In 2015 or 2016 two former tenants occupied the Unit under a tenancy agreement with the former landlord. One of the former tenants vacated in 2017. The other former tenant ("AH") continued living in the Unit.
- [6] On October 1, 2017 the Tenants were added to a written, fixed-term tenancy agreement with AH. The fixed-term ended on October 31, 2018 and the tenancy continued on a monthly basis.
- [7] The security deposit of \$580.00 was paid by AH to the former landlord.
- [8] In 2020, AH vacated the Unit and the Tenants paid AH the \$580.00 security deposit. The former landlord continued to hold the security deposit.
- [9] In December 2023 the Landlord purchased the Residential Property. A copy of the tenancy agreement, the security deposit and contact information for AH was provided to the Landlord by the former landlord.
- [10] On April 22, 2025 the Tenants vacated the Unit and the tenancy ended by mutual agreement.
- [11] On May 2, 2025 the Landlord e-Transferred AH the security deposit.
- [12] On June 19, 2025 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Application") with the Rental Office seeking the return of double the security deposit.
- [13] On June 19 and 20, 2025 the Landlord returned the security deposit, plus interest to the Tenants.
- [14] On August 27, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 2, 2025.
- [15] On September 24, 2025 the Rental Office emailed the parties a thirty-eight-page PDF evidence package.
- [16] On October 1, 2025 the Rental Office emailed the parties a new notice of a teleconference hearing scheduled for October 9, 2025.
- [17] On October 9, 2025 the Tenants and the Landlord's representative (the "Representative") 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**

- [18] Section 40 of the *Residential Tenancy 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.*
- (5) *For the purposes 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.*

- [19] For the reasons below, I find that the Landlord must pay the Tenants double the security deposit, in accordance with subsection 40(4) of the *Act*.

Summary of the Evidence

- [20] The Tenants' evidence is that they occupied the Unit with AH until sometime in 2020. As AH paid the security deposit to the former landlord, the Tenants paid AH the security deposit once she vacated the Unit. The Tenants stated that they did not inform the former landlord that AH had vacated the Unit and that they paid AH the security deposit.
- [21] After the parties completed their post-tenancy inspection of the Unit, the Tenants stated that the Landlord would return the security deposit in "one to two weeks." The Tenants stated that they were fine with giving the Landlord the time.

- [22] The Tenants stated that on May 22, 2025 they contacted the Landlord about having the security deposit returned. The Tenants stated that the Landlord had e-Transferred the security deposit to AH. The Tenants stated that AH was not the Tenant since 2020 and that the e-mail used was not active.
- [23] The Tenants stated that on May 28, 2025 they provided the Landlord with their e-mail address and AH's updated e-mail address. The Tenants stated that the security deposit could be returned to either e-mail address.
- [24] The Tenants stated that after numerous unreturned phone calls, messages and requests to have the security deposit returned, they filed the Application with the Rental Office. The Tenants stated that after the Application was served to the Landlord the Landlord e-Transferred the security deposit and interest to them.
- [25] The Tenants stated that the Landlords were given additional time to return the security deposit and did not return the security deposit until the Application was served to the Representative. The Landlord did not comply with section 40 of the *Act*.
- [26] The Representative stated that she was unaware that AH vacated the Unit. The copy of the tenancy agreement provided in the sale of the Residential Property had three names on it (AH and the Tenants). The Representative stated that the only contact information for the Unit was the AH's e-mail address.
- [27] The Representative stated that on May 2, 2025 the security deposit was returned to the only e-mail address on file, which was AH's. The Representative stated that once the Tenants brought the issue to their attention they started investigating. The Representative stated that they would not send money back to the Tenants right away because the security deposit was already released.
- [28] The Representative stated that they received the Application and concluded their investigation, which resulted in the security deposit and interest being e-Transferred to the Tenants.

Determination

- [29] Subsection 40(1) of the *Act* requires a landlord to issue payment of the security deposit to the tenant or file an application with the Rental Office within fifteen days after the tenancy is assigned or ends. If a landlord fails to do either one of the options under subsection (1) and is not exempted under subsections (2) or (3), then a landlord must pay the tenant double the security deposit and make no claim against the security deposit under subsection (4).
- [30] In this case the tenancy ended by mutual agreement on April 22, 2025.
- [31] On May 2, 2025 the Landlord mistakenly e-Transferred AH the security deposit using an inactive e-mail.
- [32] The Landlord's evidence is that it was unaware that AH vacated the Unit and was unaware that the e-mail was inactive. This was the information provided by the former landlord.
- [33] However, I find that the Landlord ought to have known that the Tenants were the correct recipients of the security deposit.

[34] Subsection 11(5) of the Act state:

Where a landlord is replaced by a new landlord, the new landlord shall as soon as practicable provide the tenant with a written notice

- (a) containing the information set out in clauses (2)(b) and (e); and*
- (b) stating the amount of the security deposit held under section 14 and the interest credited under subsection 14(9) to the date when the new landlord replaced the previous landlord.*

[35] Clause 11(2)(b) and (e) state:

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

- (b) the correct legal names of the landlord and tenant; and*
- (e) the address of service and telephone number of the landlord, or the landlord's agent, and the tenant.*

[36] The Landlord purchased the Residential Property in December 2023. If the Landlord had complied with its duties in subsection 11(5) of the Act, then it would have addressed the security deposit well before the tenancy agreement ended.

[37] 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."

[38] In this case, the tenancy ended April 22, 2025 by mutual agreement. The evidence establishes that there was agreement that the security deposit would be returned within one to two weeks from the end of the tenancy. On May 28, 2025 the Tenants provided the Landlord with details regarding the Landlord's error and gave two e-mail addresses to the Landlord to e-Transfer the security deposit.

[39] The Landlord also did not return the security deposit within 15 days of being provided with the Tenants contact information.

[40] If the Landlord believed it needed to investigate the security deposit matter, then it should have filed an application with the Rental Office in accordance with subsection 40(1). An applicant can always withdraw an application if circumstances change.

[41] The Landlord did not e-Transfer the security deposit to the Tenants until June 19, 2025 (eighteen days after the Tenants e-mail to the Landlord and almost two months after the end of the tenancy).

[42] I find that the Landlord did not comply with section 40 of the Act. Therefore, by operation of law, the Landlord must pay the Tenants double the security deposit, in the amount of \$580.00.

[43] The Application is allowed.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants \$580.00 by October 31, 2025.

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