

INTRODUCTION

- [1] This decision determines two applications filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (the "Act").
- [2] The Tenants claim for the return of their security deposit and compensation regarding the Landlord's non-compliance with the security deposit rules, in the amount of \$3,000.00.
- [3] The Landlord claims for rent owing in the amount of \$3,000.00.

DISPOSITION

- [4] I find that the Landlord did not comply with the security deposit rules in section 40 of the *Act*. The Tenants have established a claim for double the security deposit balance of \$850.00. The Landlord must also pay the Tenants the security deposit and interest in the amount of \$1,581.22.
- [5] The Landlord has established a claim of \$650.00 for rent owing. However, the Landlord also collected an unlawful rent increase of \$75.00 per month for 9 months, totaling \$675.00. The Landlord's other claims are denied.
- [6] The Landlord must pay the Tenants the total amount of \$2,456.22 by the timeline below.

BACKGROUND

- [7] The Unit is a one-bedroom, one-bathroom rental unit in a two-unit building that the Landlord has owned for about 2.5 years.
- [8] The Landlord and the Tenants entered into a first written, fixed-term tenancy agreement from September 1, 2023 to August 31, 2024. The Tenants paid a \$1,500.00 security deposit to the Landlord on August 28, 2023. Rent in the amount of \$1,500.00 was due on the first day of the month.
- [9] The Landlord and the Tenants entered into a second written, month-to-month tenancy agreement starting September 1, 2024 (the "Tenancy Agreement"). Rent in the amount of \$1,575.00 was due on the first day of the month. This was a \$75.00 rent increase, being a 5.0% increase from the original \$1,500.00 rent.
- [10] On May 11, 2025 one of the Tenants and the Landlord had an oral conversation regarding the Tenants moving out of the Unit.
- [11] On May 13, 2025 the Tenants messaged the Landlord stating that they would vacate the Unit by May 17, 2025.
- [12] On May 17, 2025 the Tenants vacated the Unit.
- [13] On May 18, 2025 the Tenants returned the Unit's keys to the Landlord.
- [14] On July 29, 2025 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office for the return of the security deposit and additional compensation (the "Tenant Application").
- [15] On July 30, 2025 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office to keep the security deposit. On August 1, 2025 the Landlord amended the application adding a claim for additional compensation (the "Landlord Application").

- [16] On October 14, 2025 the Rental Office sent the parties notice of a teleconference hearing scheduled for November 25, 2025.
- [17] On November 19, 2025 the Rental Office provided the parties with access to an evidence package containing a 110-page PDF and video evidence.
- [18] On November 25, 2025 the Tenants and the Landlord participated in a teleconference hearing. The parties confirmed that they received the evidence package and that all evidence submitted to the Rental Office was included.

ISSUES

- A. What date did the tenancy end?
- B. Do the Tenants owe rent to the Landlord?
- C. Must the Landlord pay the Tenants double the security deposit?

ANALYSIS

A. What date did the tenancy end?

- [19] The parties agree that the Tenancy Agreement was month-to-month. The parties agree that rent was paid up to May 31, 2025.
- [20] The parties disagree regarding the date the Tenancy Agreement ended.
- [21] For the reasons below, I find that the Tenancy Agreement ended on June 13, 2025.
- [22] Subsection 55(2) of the *Act* states:

A tenant may end a month-to-month or other periodic tenancy by giving the landlord a notice of termination effective on a date that
(a) is not earlier than one month after the date the landlord receives the notice;
and
(b) is the day before the day that rent is payable under the tenancy agreement.

- [23] When rent is due on the first day of the month, a tenant would normally need to provide one full calendar month's written notice to end the tenancy at the end of the month.
- [24] However, in Schedule "D" of the Tenancy Agreement, which was drafted by the Landlord, the following clause was included:

"Security Deposit The contract is month-to-month, and the Security Deposit will be returned after deducting any repairs. A notice of one month should be given by both the parties in case of ending the contract."

- [25] This clause states that a notice of one month must be given. It does not state that the notice must be given the day before the day that rent is payable. Schedule "D" does not contain wording similar to clause 55(2)(b), quoted above.
- [26] Essentially, Schedule "D" of the Tenancy Agreement provided the Tenants with a more favourable right to end the tenancy compared to the procedure in subsection 55(2).
- [27] The *Act* permitted the Landlord to provide a more favourable right to the Tenants to end the tenancy.

- [28] Section 5 protects tenants from waiving or releasing rights, benefits and protections under the *Act*. There is no equivalent protection for landlords. This section states as follows:

Except as specifically provided in this Act, a waiver or release by a tenant of the rights, benefits or protections under this Act is void and of no effect.

- [29] In almost all cases landlords prepare residential tenancy agreements and present the agreements to their tenants for signing. Therefore, landlords have control over drafting tenancy agreements. The tenant protections in section 5 reflect this reality.

- [30] The *Act* provides additional requirements and restrictions regarding tenancy agreement content.

- [31] I find that the Tenancy Agreement permitted the Tenants to end the Tenancy Agreement with one month's notice. This means that the Tenancy Agreement would end on the date in the second month corresponding with the date that the notice was given in the first month.

- [32] The Landlord Application states in part as follows:

"The Tenant vacated the property on May 18, 2025, after providing only 4 days notice on May 13 despite the lease agreement (Sch D) clearly requiring a minimum of 1 month's notice to terminate the tenancy. This condition was acknowledged and agreed upon in the signed lease..."

- [33] Further, the message correspondence between the parties establishes that the Tenants gave the Landlord notice on May 13, 2025.

- [34] On May 11, 2025 one of the Tenants and the Landlord spoke earlier regarding the end of the tenancy. However, I find that there is insufficient evidence to establish that this oral conversation amounted to notice to end the Tenancy Agreement.

- [35] I find that the Tenancy Agreement ended June 13, 2025, one month after May 13, 2025.

B. Do the Tenants owe rent to the Landlord?

- [36] I find that the Tenants are responsible for rent owing from June 1 to 13, 2025 because the Tenancy Agreement ended on June 13, 2025.

- [37] The Landlord's other rent owing claims are denied. The Tenants requested that rent be returned for the period of May 18 to 31, 2025, which is also denied.

- [38] There is an issue regarding the monthly rent amount that the Tenants are responsible for. The Tenancy Agreement included the following clause 17 in Schedule "D":

"Rent Raise 17. There will be a yearly increase in the rent by 5% after completion of each. For eg: The rent from August 2023 to July 2024 will be \$1500/-. From August p^t 2024 the rent will be \$1500 + \$75(5%) = \$1575. For the next year it will be \$1575 + \$78.75=\$1653."

- [39] Part 3 of the *Act* restricts the amount that rent can be increased. Landlords and tenants cannot contract out of these restrictions.

- [40] The Director of Residential Tenancy (the "Director") sets the annual allowable rent increase percentage. Subsection 49(3) states that the maximum allowable percentage that the Director can set is 3.0%. In 2024 the Director set the allowable percentage at 3.0% and in 2025 the Director set the allowable percentage at 2.3%.

- [41] The Landlord could not increase the Unit's rent in 2024 by 5.0% unless the Landlord filed an application with the Rental Office, provided supporting evidence, participated in a hearing, and obtained an order approving the rent increase.
- [42] The Landlord did not follow this process. Therefore, I find that the Landlord was only permitted to charge a monthly rent of \$1,500.00.
- [43] I find that the Tenants are responsible for rent owing from June 1 to 13, 2025, in the amount of \$650.00 (13 days divided by 30 days multiplied by \$1,500.00).
- [44] The evidence establishes that the Tenants paid the Landlord \$1,575.00 per month from September 2025 to May 2025. As a result, the Tenants overpaid the monthly rent by \$675.00 during this period (9 months multiplied by \$75.00 per month).

C. Must the Landlord pay the Tenants double the security deposit?

- [45] For the reasons below, I find that the Tenants have established a claim for double the security deposit because the Landlord did not return this security deposit balance to the Tenants within 15 days after the date the tenancy ended or file an application with the Rental Office within this timeline.
- [46] Section 40 of the *Act* provides the rules for keeping and returning security deposits, 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.

- [47] The Landlord was required to comply with subsection 40(1) regarding the security deposit. With the Tenancy Agreement ending on June 13, 2025, the Landlord had to return the security deposit by June 28, 2025 or file an application with the Rental Office to keep the security deposit by June 30, 2025 (the Rental Office was closed on June 28 and 29, 2025). The Landlord's application was not filed until July 30, 2025, well past the 15-day timeline.
- [48] There are no earlier Rental Office decisions authorizing the Landlord to keep the security deposit under subsection 40(2).

- [49] I have reviewed the messages between the parties and there is not an agreement for the Landlord to keep part or all of the security deposit under clause 40(3)(a). In the messages the Tenants suggested that the Landlord keep part of the security deposit for part of June 2025 rent. The Landlord essentially responded that they would be keeping the entire security deposit unless a replacement tenant was found.
- [50] Although there is insufficient evidence of an agreement under clause 40(3)(a), the message correspondence shows that the Tenants generally agreed to a deduction for part of June 2025's rent because of the required one-month notice to end the tenancy, which is supported by clause 40(3)(b) (see Island Regulatory and Appeals Commission Order LR25-48 at paragraph 29). However, as the Landlord did not comply with subsection 40(1), the Landlord is required to pay the Tenants double the security deposit balance under subsection 40(4). The valid balance of the security deposit is \$850.00 (\$1,500.00 minus \$650.00).

CONCLUSION

- [51] The security deposit is \$1,500.00 and the interest is \$81.22.
- [52] The Landlord must pay the Tenants double the security deposit balance, in the amount of \$850.00.
- [53] The Tenants overpaid the Landlord rent, in the amount of \$675.00. The Tenants owe the Landlord pro-rated June 2025 rent, in the amount of \$650.00.
- [54] The Landlord must pay the Tenants the net total amount of \$2,456.22 by the timeline below, calculated as follows:

Item	Amount
Security deposit	\$1,500.00
Security deposit interest	\$81.22
Double security deposit balance	\$850.00
Tenants' rent overpayment	\$675.00
Rent owing to Landlord	-\$650.00
Total	\$2,456.22

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants \$2,456.22 by January 16, 2026.

DATED at Charlottetown, Prince Edward Island, this 2nd day of December, 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.