

INTRODUCTION

- [1] This decision determines two applications filed by the Tenants and the Landlord with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act*, cap. R-13.11 (the "Act").
- [2] The Tenants are seeking an order requiring the Landlord to return the security deposit and \$200.00 paid to the Landlord as "token" or "key money."
- [3] The Landlord is seeking compensation against the Tenants, in the amount of \$5,050.00 for lost rental income, repairs, pest remediation and general damages for pain, suffering and reputational damage.

DISPOSITION

- [4] There is no tenancy agreement and therefore the funds paid by the Tenants to the Landlord must be returned, with interest. As there was no tenancy agreement, subsection 40(4) does not apply.
- [5] The Landlord must pay the Tenants \$1,061.13 by the timeline below.
- [6] The Landlord's claims for compensation are denied.

BACKGROUND

- [7] The Unit is a two-bedroom, two-bathroom single-family dwelling owned by the Landlord since 2020.
- [8] On September 4, 2025 the parties completed a walk-through of the Unit. The Tenants paid the Landlord \$200.00, as requested by the Landlord. This \$200.00 was described as "token" or "key money." The tenancy was to begin on October 1, 2025. The parties provided conflicting evidence regarding the tenancy having a fixed or periodic term.
- [9] On September 11, 2025 the Tenants paid the Landlord an \$850.00 security deposit, at the Landlord's request.
- [10] On September 14, 2025 the Tenants spoke with the former tenant of the Unit who informed the Tenants of issues with the Unit.
- [11] On September 15, 2025 the Tenants informed the Landlord that they no longer wanted to move into the Unit.
- [12] On October 9, 2025 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office seeking the return of the security deposit and the return of the \$200.00 paid. The Tenant Application was emailed to the Landlord.
- [13] On December 5, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for January 27, 2026.
- [14] On January 15, 2026 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Rental Office seeking \$5,050.00 compensation for lost rental income, repairs, pest remediation and general damages. On January 16, 2026 the Landlord Application was emailed the Tenants.
- [15] On January 19, 2026 the Rental Office emailed the parties an updated notice of teleconference hearing rescheduled for February 10, 2026.
- [16] On February 4, 2026 the Rental Office emailed the parties a 48-page PDF evidence package.

- [17] On February 6, 2026 the parties submitted additional evidence, which included an 8-page PDF submitted by the Tenants and 3-email responses by the Landlord.
- [18] On February 10, 2026 the Tenants and the Landlord joined the teleconference hearing. The parties confirmed that they received the evidence and additional evidence package. The parties confirmed that all evidence submitted to the Rental Office was included.

ISSUES

- A. Must the Landlord return the security deposit, including interest and/or the \$200.00 token money to the Tenants?
- B. Has the Landlord established claims for compensation against the Tenants?

ANALYSIS

A. Must the Landlord return the security deposit, including interest and/or the \$200.00 token money to the Tenants?

- [19] For the reasons below, I find that the Landlord must return the security deposit, including interest and the \$200.00 token money to the Tenants, in the total amount of \$1,061.13 by the timeline below.

The tenancy agreement, the security deposit and the token money

- [20] I find that there was no tenancy agreement between the parties. No tenancy agreement was created, given to the Tenants or signed by the parties.
- [21] The evidence presented establishes that the parties discussed entering into a tenancy for the Unit on September 3, 2025 and completed a walkthrough of the Unit on September 4, 2025. The Landlord requested the Tenants pay \$200.00 as token money, also known as “key money.”
- [22] After the Tenants paid the token money, the Landlord requested that the Tenants pay the security deposit, which the Tenants paid on September 11, 2025.
- [23] The evidence does not establish that the parties communicated again until September 15, 2025.
- [24] The evidence presented establishes that the Landlord did not provide the Tenants with a written tenancy agreement.
- [25] The evidence presented establishes that the parties disputed whether the tenancy would be for a fixed or periodic term. On September 15, 2025 the Tenants informed the Landlord that they no longer wanted to move into the Unit, and requested the return of their funds.
- [26] In Orders LR24-47, LR25-10 and LR25-26 the Island Regulatory and Appeals Commission (the “Commission”) found on similar sets of facts that a landlord had to return a security deposit because the parties did not have a signed tenancy agreement and the tenants never moved into the rental units.
- [27] Particularly, in LR25-26 the Commission commented that despite the definition of tenancy agreement under clause 1(w) of the *Act*, subsections 11(1) and (2) are mandatory and require a landlord to prepare a written tenancy agreement that complies with the *Act* and includes the agreed terms.

[28] Similarly, in this case, I find that the parties did not agree on whether the tenancy would be periodic or for a fixed-term. Accordingly, I find that there was no tenancy agreement and the funds paid by the Tenants to the Landlord must be returned to the Tenants, together with interest earned on the security deposit.

[29] The Landlord must return the \$200.00 token money collected. Subsections 12(1) and (2) of the Act state:

- (1) *A landlord shall not charge a person a fee for*
 - (a) *accepting an application for a tenancy;*
 - (b) *processing the application;*
 - (c) *investigating the applicant's suitability as a tenant; or*
 - (d) *accepting the person as a tenant.*

- (2) *A landlord shall not accept any deposit except as permitted under section 14.*

[30] Accordingly, I find that the Landlord must return to the Tenants \$1,061.13 by the timeline below, calculated as follows:

Security deposit:	\$850.00
Interest (Sept 11/25 to Mar 13/26):	\$11.13
Return token money:	<u>\$200.00</u>
Total:	\$1,061.13

[31] I note that in Order LR25-26 the Commission stated (paragraph 35):

"As an aside, had the Commission determined that the parties had a valid tenancy agreement, section 40 of the Act would apply and a return of double the security deposit may very well have resulted. However, in the present appeal the Landlord is not subject to section 40 as the Commission has found that there is no tenancy agreement, and therefore a simply return of funds paid, plus interest, is all that is required of the Landlord."

[32] I find that the relevant facts in Order LR25-26 are very similar to the facts in this case and the findings the same.

B. Has the Landlord established claims for compensation against the Tenants?

[33] For the reasons below, I find that the Landlord's evidence does not establish claims against the Tenants for compensation.

[34] The onus is on the Landlord, as the party asserting their claims against the Tenants, to provide clear evidence to establish their claims on a balance of probabilities.

[35] The Landlord submitted invoices, receipts, and text messages with the Tenants and the former tenant.

Lost rental income

[36] I find that the Landlord's lost rental income claim is denied. This type of claim is normally based upon a breach of the tenancy agreement by the tenant, which the landlord has made proper mitigating efforts to reduce financial loss.

[37] In this case, there is no tenancy agreement between the parties. Therefore, the notice requirements under the Act to end a tenancy did not apply to the Tenants.

Repairs and remediation

[38] I find that the Landlord's claims are denied. The Tenants did not move into the Unit. The Landlord's evidence does not establish that the Tenants caused damage or an infestation of pests in the Unit. The Landlord's evidence suggests within the correspondence with the former tenant, that the Landlord blames the former tenant for the damage and pest infestation in the Unit.

[39] The Landlord's evidence suggests that there is some form of collusion between the former tenant and the Tenants, whom the Landlord alleges are friends. I find that the evidence does not support such claims.

General damages

[40] I do not have the jurisdiction (authority) to award a party general damages for pain and suffering or reputational damage under the *Act*.

[41] Therefore, the Landlord's claim is denied.

CONCLUSION

[42] The Tenant Application is allowed.

[43] The Landlord Application is denied.

[44] The Landlord must pay the Tenants \$1,061.13 by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants \$1,061.13 by April 13, 2026.

DATED at Charlottetown, Prince Edward Island, this 13th day of March, 2026.

(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.