

**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 Tenant seeks the return of their October 24, 2025 payment of \$600.00 to the Landlord.
- [3] The Landlord seeks to keep the Tenant's \$600.00 payment.

**DISPOSITION**

- [4] I find that the Landlord must return \$606.27 (including interest) to the Tenant because the parties did not enter a written tenancy agreement.
- [5] I find that the Landlord must also return these funds because the parties agreed to change the Tenant's expected move-in date and shortly thereafter cancelled any further plans for the Tenant to move into the Unit.

**BACKGROUND**

- [6] The Unit is one-bedroom with shared services and facilities in a four-bedroom, four-bathroom, three-level house with a garage (the "House"). The Unit is located on the House's top level. The Landlord has owned the land where the House is located for about 15 years and the Landlord built the House about five years ago.
- [7] In this case the existence of a tenancy agreement is in dispute.
- [8] On October 24, 2025 the Tenant paid the Landlord \$600.00 regarding the rental of the Unit.
- [9] The Tenant did not move into the Unit and the Tenant did not receive keys for the House.
- [10] On November 24, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office seeking the return of the \$600.00 payment.
- [11] On December 1, 2025 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office seeking to keep the \$600.00 payment plus additional compensation for rent owing. At the hearing the Landlord stated that he was only seeking to keep the Tenant's \$600.00 payment.
- [12] On January 30, 2026 the Rental Office sent the parties notice of a teleconference hearing scheduled for March 3, 2026.
- [13] On February 23, 2026 the Rental Office emailed the parties a 32-page evidence package.
- [14] On March 3, 2026 the Tenant and the Landlord joined the teleconference. The Landlord had submitted an additional one-page document which was forwarded to the Tenant. The parties confirmed receipt of the evidence package and the additional document. The parties confirmed that all evidence previously submitted to the Rental Office was included.

**ISSUES**

- A. Did the parties enter into a tenancy agreement?
- B. Did the parties agree to change the expected move-in date to December 1, 2025?

**ANALYSIS****A. Did the parties enter into a tenancy agreement?**

[15] For the reasons below, I find that the Landlord and the Tenant did not enter into a tenancy agreement as required by the Act.

[16] Subsection 1(w) of the Act defines a “tenancy agreement” as follows:

*“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and the provision of services and facilities;*

[17] The parties’ evidence establishes that they agreed upon the space being rented, the \$1,200.00 monthly rent, the included services and the start date of November 1, 2025.

[18] However, the Act includes additional mandatory requirements for tenancy agreements. In particular, subsections 11(1) to (3) of the Act state:

*(1) A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*

*(2) 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.*

*(3) Within 10 days after a landlord and tenant enter into a tenancy agreement, the landlord shall give the tenant (a) a copy of the tenancy agreement; and (b) any information required by the regulations to be provided.*

[19] The parties did not provide the Rental Office with a written tenancy agreement. The Tenant stated that she never received a written tenancy agreement for the Unit.

- [20] The parties provided a hand-written document titled "*Confirmation of Residency*" signed by the Landlord and dated October 24, 2025. This document was prepared to assist the Tenant with obtaining funding for the Unit.
- [21] The Landlord submitted into evidence a hand written statement from the Landlord's property manager ("BM") dated February 9, 2026 which refers to a "*tenancy form*." The form BM may be referring to is a second, partly typed document also titled "*Confirmation of Residency*" dated October 28, 2025, which BM prepared to assist the Tenant with obtaining funding for the Unit.
- [22] I find that the confirmation of residency documents (the "Residency Documents") are not tenancy agreements. The Residency Documents were created for a different purpose than a written tenancy agreement and they do not contain the mandatory information required by the *Act*.
- [23] Under clause 11(2)(a) tenancy agreements must set out the rights and obligations of landlords and tenants because they must include Part 2 Division 4 of the *Act*, being sections 19 to 37.
- [24] The Residency Documents do not state whether the term is fixed or periodic, which is required for tenancy agreements under clauses 11(2)(i)(ii) and 11(2)(i)(iii).
- [25] The Residency Documents do not state a security deposit amount, which is required for tenancy agreements under clause 11(2)(i)(vi). At the hearing the Tenant stated that the security deposit was something that the parties had planned on discussing later. The Landlord provided evidence regarding his normal practice. The parties' evidence does not establish an agreement regarding a security deposit amount.
- [26] For these reasons, I find that the parties did not complete a written tenancy agreement.
- [27] In Orders LR24-47, LR25-10 and LR25-26 the Island Regulatory and Appeals Commission determined matters where landlords were required to return payments to prospective tenants when written tenancy agreements had not been prepared.
- [28] In this case there was discussion and agreement on some of the mandatory terms but the parties did not meet all of the mandatory terms in subsections 11(1) and (2). I find that the parties' communications were headed towards a tenancy agreement, however, the parties had not agreed to all of the mandatory terms and a written tenancy agreement was not prepared.
- [29] As a result, I find that there was no tenancy agreement under the *Act* and the Landlord must return the funds paid to the Tenant plus interest.

**B. Did the parties agree to change the expected move-in date to December 1, 2025?**

- [30] For the reasons below, I find that the parties agreed to change the expected move-in date to December 1, 2025 and the parties cancelled the rental before this new move-in date.
- [31] In this case the communications between the parties were complicated by three matters.
- [32] Firstly, on October 23, 2025 the Tenant viewed the Unit and at that point personal items such as furniture needed to be removed before the Tenant could occupy the Unit. On October 31, 2025 BM messaged the Tenant asking for boxes because the Tenant worked at a location that has extra boxes. The Tenant believed that the Unit was not ready because of BM's boxes request. The Landlord stated that the Unit was ready as of October 24, 2025.
- [33] Secondly, on October 27 or 28, 2025 the Landlord suffered a heart-attack. The Tenant stated that she was waiting to hear from the Landlord because the Tenant understood the Landlord was in recovery.

- [34] Thirdly, the Tenant had some separate communications with the Landlord and BM. The Tenant stated that she received inconsistent information in these separate communications.
- [35] Due to these matters it was unclear to the Tenant whether the Tenant could move in on November 1, 2025.
- [36] The Tenant stated that on November 10, 2025 the Tenant telephoned the Landlord directly to check in on how the Landlord was doing and the situation with the Unit. The Tenant stated that the parties tentatively agreed to change the move-in date to December 1, 2025.
- [37] At the hearing the Landlord provided the following evidence regarding a November 10, 2025 telephone call with the Tenant:
- "We probably did but I don't recall the particulars about it if we did talk. Like, no doubt if [Tenant] says we did I guess we did but I can't be sure what was said."*
- [38] With regard to changing the move-in date from November 1, 2025 to December 1, 2025, the Landlord stated:
- "I would have to be unsure in trying to answer that one because the agreement was made for November 1st and so was the receipt so I don't know how that would change to December but I suppose its possible but it would kinda mess things up. Like, we'd lose November's rent if that's what the agreement was for. It wouldn't really make sense. But, I'm not saying its impossible."*
- [39] At the hearing the Tenant had a clear recollection of this telephone call whereas the Landlord had difficulty remembering the details. Based upon the evidence presented, I find that the Landlord agreed to change the move-in date to December 1, 2025.
- [40] I have reviewed the message correspondence provided and I find that the parties decided to cancel the rental shortly after the November 10, 2025 telephone call. This is consistent with the Landlord's use of the House.
- [41] At the hearing the Landlord stated that he had lived in the main part of the House for over four years. Around October 24, 2025 the Landlord moved into the Unit's garage in order to rent out the rest of the House. In late November the Landlord decided to move out of the garage and back into the main part of the House when the rental was not going to work out.
- [42] For these reasons, I find that there is a second basis that the Landlord must return the \$600.00 payment to the Tenant. I find that the parties agreed to change the move-in date to December 1, 2025 and the plan for the Tenant to move into the Unit was cancelled before this date.
- [43] It could be argued that the Tenant waived their right to the \$600.00 payment because of the Tenant's text-message communications in the evidence package. However, any Tenant waiver would be of no effect under section 5 of the Act, which states:

*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.*

## CONCLUSION

- [44] The Landlord must pay \$606.27 (including interest) to the Tenant by the timeline below.
- [45] The Landlord must ensure that for future rentals proper tenancy agreements are used containing the mandatory information required by the Act. The *Standard Form of Tenancy Agreement* is available on the Rental Office's website.

**IT IS THEREFORE ORDERED THAT**

1. The Landlord must pay the Tenant \$606.27 by April 17, 2026.

**DATED** at Charlottetown, Prince Edward Island, this 17th day of March, 2026.

(sgd.) Andrew Cudmore

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**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.