

INTRODUCTION

- [1] This decision addresses an application filed with the Residential Tenancy Office (the “Rental Office”) under the *Residential Tenancy Act* (the “Act”).
- [2] The Landlords seek \$9,618.33 for rent owing and to keep the security deposit as part of the claim.

BACKGROUND

- [3] The Unit is an apartment in a building owned by the Landlords (the “Residential Property”).
- [4] On June 26, 2025, the parties entered into a written fixed-term tenancy agreement for the Unit, effective from July 1, 2025, to June 30, 2026. Rent of \$1,450.00 was due on the first day of the month. A \$1,450.00 security deposit was paid on June 30, 2025.
- [5] Sometime in August 2025, the Tenant moved out of the Unit. The end date of the tenancy is in dispute.
- [6] On September 15, 2025, the Landlords filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office (the “Application”) seeking rent owing and to keep the security deposit. A copy of the Application was served to the Tenant electronically.
- [7] On April 15, 2026, the Landlord filed an amended *Form 2(B) Landlord Application to Determine Dispute* (the “Amended Application”) with the Rental Office seeking rent owing and to keep the security deposit. A copy of the Amended Application was served to the Tenant electronically.
- [8] On May 1, 2026, the Rental Office sent the parties notice of a tele-hearing scheduled for May 28, 2026.
- [9] On May 21, 2026, the Rental Office emailed the parties a 181-page PDF evidence package.
- [10] On May 27, 2026, the Rental Office sent the parties notice of a rescheduled tele-hearing scheduled for May 29, 2026.
- [11] On May 29, 2026, the Landlords and the Tenant participated in the tele-hearing. The parties confirmed receipt of the evidence package and stated that all evidence submitted to the Rental Office was included.
- [12] After the hearing, both parties submitted additional evidence, which was shared with the other party.

DISPOSITION

- [13] The Landlords will keep the security deposit, including interest, in the amount of \$1,487.60.
- [14] The Tenant must pay the Landlords \$5,201.11 by the timeline below.

ISSUES

- A. Was the Application served within the five-day timeline under the Act?
- B. Was the tenancy terminated due to the Tenant’s ill health?
- C. Does the Tenant owe the Landlords rent?

EVIDENCE

The Landlords' evidence and submissions

- [15] The Landlords disputed the Tenant's position that the Application was procedurally defective. The Landlords stated that they dated the Application on September 11, 2025, but it was not filed with the Rental Office until September 15, 2025. They stated that the Application was served to the Tenant on September 18, 2025, which was within the timeline required by the Act.
- [16] The Landlords seek rent owing of \$9,618.33, from September 1, 2025, to March 19, 2026, and to keep the security deposit to offset their claim. The Landlords stated the Tenant vacated the Unit around the end of August 2025, without providing proper notice to end the fixed-term. The Landlords were unable to secure another tenant until March 20, 2026.
- [17] On July 28, 2025, the Tenant messaged the Landlords stating that she was seeking to terminate the tenancy agreement. The Tenant asked if she was allowed to sublet the Unit and if the Landlords would assist her in finding another tenant. On July 31 and August 1, 2025, the Landlords provided the Tenant with detailed information regarding subletting.
- [18] In August 2025, the Tenant provided the Landlords with contact information for prospective tenants, and the Landlords followed up with them. None of the prospective tenants agreed to sublet the Unit.
- [19] On August 30, 2025, the Tenant served the Landlords with a *Form 3 – Tenant Notice of Termination* (the "Form 3") stating that she was terminating the tenancy due to illness. The Tenant also provided a medical certificate (the "Certificate") along with the Form 3. The Tenant stated she had vacated the Unit and left the Unit's keys with another tenant of the Residential Property.
- [20] The Landlords disputed the Tenant's ability to terminate the tenancy agreement due to ill health. They stated that the Act requires a tenant to provide a landlord with proof of a reduction in income and a medical certificate. The Landlords stated they have not received proof of reduced income or why the Tenant's employment was discontinued. The Landlords also question why the Certificate was issued by a doctor in another country rather than in Canada.
- [21] On September 1, 2025, the Landlords began advertising the Unit on Facebook Marketplace and Kijiji to find a new tenant. The Landlords only advertised on Kijiji for 60 days.
- [22] The Landlords received 82 applications from prospective tenants to rent the Unit. The Landlords showed the Unit to 20 of those prospective tenants. The Landlords had four potential tenants willing to rent the Unit; however, three of those individuals changed their minds. The Landlords rented to the fourth individual, who agreed on March 19, 2026, to begin renting on March 20, 2026. The Landlords reduced the rent to \$1,420.00 because the new tenant had previously rented from them.
- [23] The Landlords stated that the Tenant's tenancy agreement and the new tenant's tenancy agreement (the "New Tenancy Agreement") include the same terms and conditions. They stated that because they require a fixed-term tenancy agreement and do not allow pets in the Unit, these requirements discouraged some prospective tenants from renting the Unit. The New Tenancy Agreement was submitted as evidence.

The Tenant's evidence and submissions

- [24] The Tenant's position is that the Application is procedurally defective. She stated that the Application was filed on September 11, 2025, but she was not served a copy of the Application until September 19, 2025, which was past the five-day timeline required under the Act.
- [25] The Tenant disputes that she is required to pay any additional rent and seeks the return of the security deposit. The Tenant stated that she paid rent for August 2025, vacated on August 25, 2025, and the tenancy terminated on August 30, 2025, due to her providing sufficient notice.
- [26] The Tenant got a new job in the Province around June 2, 2025, and she signed a one-year tenancy agreement with the Landlords. The Tenant stated she was unable to perform all her required employment duties due to an ankle injury for which she was receiving medical treatment. The Tenant submitted evidence showing she had been receiving medical treatment since at least May 7, 2025.
- [27] The Tenant was required to wear work boots and to drive long distances, which was difficult due to her ankle injury. On July 25, 2025, the Tenant's employment was terminated. A copy of the Tenant's termination notice (the "Termination Notice") was submitted as evidence.
- [28] On July 28, 2025, the Tenant emailed the Landlords to express her intent to terminate the tenancy agreement and to inquire about the termination and subletting processes. On August 1, 2025, the Landlords agreed that the Tenant could sublet the Unit.
- [29] The Landlords stated that if the Tenant required the Landlords' assistance with subletting, the Landlords would charge the Tenant \$45.00 per hour and a \$75.00 paperwork fee, with a timeframe of 4-8 hours per applicant. The Tenant stated that the Landlords' fees were unlawful under the Act and were a barrier to her subletting the Unit.
- [30] The Tenant advertised the Unit during August 2025 and forwarded the contact information of prospective subtenants to the Landlords. The Tenant stated that the Landlords had restrictive requirements, which multiple prospective tenants cited as reasons for declining to sublet the Unit. She stated that she had not fully read the tenancy agreement when she signed it and was unaware of all the restrictions.
- [31] On August 25, 2025, the Tenant stated she left Canada because she had no income, no health insurance, and an ankle injury that made it difficult to climb the stairs of a third-floor apartment.
- [32] On August 30, 2025, the Tenant served the Landlords with the Form 3, stating that she was terminating the tenancy due to ill health. The Tenant also provided the Landlords with the Certificate, which was completed by a doctor in her home country. The Certificate stated that the Tenant required two months of bed rest due to an ankle injury.

ANALYSIS & FINDINGS

A. Was the Application served within the five-day timeline under the Act?

- [33] The Tenant stated that the Application is procedurally defective because it was not served to her within five days of filing, under subsection 76(2) of the Act. The Tenant stated that the Application was filed on September 11, 2025, because that was when the Landlords dated it.
- [34] However, I find that the evidence establishes that the Application was emailed to the Rental Office on September 14, 2025, a Sunday, and is therefore considered filed on September 15, 2025, under subsection 33(7) of the *Interpretation Act*.
- [35] The evidence also establishes that the Application was emailed to the Tenant on September 18, 2025, after 5 p.m., and is therefore considered served on September 19, 2025, under subsection 100(5) of the Act.
- [36] I find that the evidence establishes that the Application was served within the required five-day timeline under the Act, and it will be determined on its merits.
- [37] I find that the Tenant has not established that the Application was filed on September 11, 2025 or that the Application was served outside the five-day timeline under the Act.

B. Was the tenancy terminated due to the Tenant's ill health?

- [38] The Tenant bears the onus of proving her claim that the tenancy was validly terminated as a result of ill health.
- [39] In order to accept that the tenancy was terminated due to ill health, I must be satisfied that the Tenant's evidence supports the requirements set out in clause 57(1)(a) of the Act, which states:

A tenant may end a tenancy agreement by giving a notice of termination to the landlord under the following circumstances:

(a) the tenant's income is reduced as a result of ill health, and the notice to the landlord is accompanied by evidence of the tenant's reduction in income and a certificate provided by a medical practitioner or nurse practitioner respecting the tenant's state of health.

- [40] The Tenant stated that she had a pre-existing ankle injury at the time of her termination of employment, and she provided medical records as evidence. However, the Tenant did not argue that her employment was terminated as a direct result of her ankle injury, but rather that it made some of her work tasks more difficult. The Tenant stated that after her employment was terminated and her income was reduced, she could no longer afford rent or medical treatment in Canada and that she had to return to her home country.
- [41] I have reviewed the reasons cited in the Termination Notice for the Tenant's termination. The Termination Notice states that the Tenant was frequently late for meetings and in-person workdays. The Tenant missed key data submission deadlines and failed to follow data collection instructions. The Tenant lacked initiative and follow-through, and had low engagement. The Tenant failed to show independence and demonstrated inefficient driving times during work travel.
- [42] I find that the Termination Notice does not state that the Tenant's employment was terminated due to ill health or an ankle injury that prevented her from performing her job. Despite the Tenant's position that she had a pre-existing ankle injury before starting her job, I find that the Tenant has not established that her reduction in income was a "result" of ill health under clause 57(1)(a) of the Act.

C. Does the Tenant owe the Landlords rent?**Tenant's notice**

- [43] As I have found that the tenancy did not terminate under clause 57(1)(a), I find that the Tenant was required to provide the Landlords with sufficient notice to terminate the fixed-term tenancy agreement under subsection 55(3) of the Act, which states:

A tenant may end a fixed-term 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;*
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy; and*
- (c) is the day before the day that rent is payable under the tenancy agreement.*

- [44] The Landlords stated that the Tenant did not provide notice she was ending the tenancy until the Tenant served the Landlords with the Form 3 on August 30, 2025. However, I find that the evidence establishes that on July 28, 2025, the Tenant emailed the Landlords to inform them of her intent to terminate the tenancy agreement.

- [45] The Island Regulatory and Appeal Commission (the "Commission") has stated that a tenant may provide a landlord with notice to terminate a tenancy agreement under section 53 by text message or email, rather than using a Rental Office form. In Order LR24-35, the Commission stated:

"21. The operation of section 53 of the Act with clause 100.(1)(d) permits a tenants notice of termination to be sent electronically. Clause 100.(1)(d) makes no reference or distinction between types of electronic document service. The Commission therefore finds that communications by text message is permissible for the purposes of a tenant providing a notice of termination to a landlord."

- [46] Additionally, the Commission stated in Order LR25-57:

"31. In the opinion of the Commission, this email exchange amounted to the Tenant giving notice to end the fixed-term Tenancy Agreement in accordance with section 55(3) of the Act."

- [47] I find that on July 28, 2025, the Tenant provided the Landlords notice that she was terminating the tenancy agreement. However, despite the Tenant providing notice on July 28, 2025, subsection 55(3) states that the effective date of the notice cannot be earlier than the end date of the tenancy specified in the tenancy agreement, which in this case was June 30, 2026.

- [48] Therefore, the Tenant's maximum liability for rent owing from September 2025 to June 2026 was \$14,500.00 (10 months x \$1,450.00). The Landlords found a new tenant effective March 20, 2026, thereby reducing the Tenant's liability. Although the Landlords claim \$9,618.33 in rental losses, I calculate their actual lost rental income at \$9,588.71 (6 months x \$1,450.00) + (19 days / 31 days x \$1,450.00).

Subletting fees

- [49] The Tenant stated the Landlords told the Tenant that if she sought their assistance to seek a subtenant, they would charge \$45.00 per hour and a paperwork fee of \$75.00, with 4-8 hours being the timeframe per applicant. The Tenant stated that she did not seek the Landlords' assistance with subletting because their fees were unlawful, and she found it more difficult to find a new tenant.

[50] Subsection 30(4) states in relation to subletting:

A landlord shall not charge a fee in excess of expenses actually incurred by the landlord in relation to giving consent under subsection (1).

[51] Despite the Tenant's position that the Landlords' fees were unlawful, I find that there is insufficient evidence that the Landlords' fees would have exceeded the expenses the Landlords would actually have incurred in relation to giving consent to sublet. As the Tenant never requested those services, no expenses were actually incurred, and there is insufficient evidence to determine whether the proposed fees would have exceeded those proposed expenses.

[52] Therefore, I find that the Tenant has not established that the Landlords' fees were unlawful or that they prevented the Tenant from finding a subtenant for the Unit.

Mitigation

[53] To determine whether the Tenant owes the Landlords rent, I must first determine whether the Landlords engaged in adequate mitigation efforts to find a new tenant.

[54] Section 46 of the Act discusses mitigation, stating as follows:

Where a tenant abandons the rental unit, the landlord shall mitigate damages that may be caused by the abandonment to the extent that a party to a contract is required by law to mitigate damages.

[55] In Order LR20-39, under the *Rental of Residential Property Act* (the "Former Act"), the Commission commented on a landlord's duty to mitigate rental losses when a tenant seeks to terminate a fixed-term agreement. I note that a landlord's duty to mitigate was similar under the Former Act as under the current Act. The Commission stated:

"In addressing the lessor's duty to mitigate under section 29 of the Act, the Commission finds that the adequacy of mitigation, not just whether or not mitigation occurred, may be considered. The quantum of the claim and the remaining duration of the rental agreement are relevant facts to consider when addressing the adequacy of mitigation. What may be considered reasonable efforts to mitigate for a small claim or a short period of time may be lacking for a large claim or an extended period of time.

As of November 1, 2020, there were ten (10) months left in the rental agreement. At a monthly rent of \$600, the quantum of the claim would be \$6,000. With such a lengthy time period and such a large quantum, the Commission would expect substantial efforts to mitigate the Respondent's losses. The placement of a Kijiji advertisement and a posting at an educational institution, while a good start, does not, of itself, constitute substantial efforts to mitigate given the length of the remaining rental agreement and the quantum of the claim. The Commission finds that the Respondent only partly met the obligations of a lessor to mitigate...

The Commission determines that the remaining ten (10) months of the rental agreement (November 1, 2020 to August 31, 2021) shall be equally divided between the parties..."

[56] As of September 1, 2025, the Landlords' potential rental losses were \$14,500.00. Consistent with the Commission's finding, I would expect substantial mitigation efforts on the Landlords' behalf.

[57] As I have found that on July 28, 2025, the Tenant provided notice that she was ending the tenancy, I find that the Landlords could reasonably have begun mitigation efforts at that time. However, the Landlords did not begin mitigation until one month later.

- [58] The Landlords stated they advertised the Unit only on Facebook Marketplace and Kijiji (for 60 days) to find a new tenant. I find that the Landlords could have engaged in additional advertising to help mitigate their rental losses.

Terms and conditions

- [59] For all tenancy agreements commencing on or after April 8, 2023, landlords are required to prepare written tenancy agreements in accordance with sections 10 and 11 of the Act. The standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office's website. The evidence establishes that the Landlords did not use the Form 1 from the Rental Office's website for either the Tenant's or the new tenant's tenancy agreements.

- [60] Sections 10 and 11 of the Act set out the required content of tenancy agreements. In particular, clause 11(2)(a) of the Act 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.

- [61] Landlords are required to include Part 2, Division 4 (sections 19 to 37) in all written tenancy agreements. These provisions 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 about the proper processes landlords and tenants must follow.

- [62] In particular, section 20 sets out the fees a landlord may or may not charge during a tenancy. In the New Tenancy Agreement, the Landlords included several restrictive terms and conditions, some of which may be inconsistent with the Act, and may have dissuaded potential tenants, such as:

- a. A penalty of \$1,000.00 for the illegal use of laundry equipment;
- b. For late rent, a \$100.00 administration fee and 5% of the monthly rent per day;
- c. A \$1,000.00 fee, advertising costs, loss of rent costs, and cleaning and repair costs for improper notice or breach of the tenancy agreement;
- d. A fee of \$295.00 or higher for replacing locks and keys;
- e. A fee of \$100.00 or higher for costs if the tenant is locked out;
- f. If a lawsuit results from the tenancy, the unsuccessful party will pay a reasonable sum of the other party's legal fees;
- g. Agreeing to use laundry equipment only once per week.

- [63] Although the Landlords engaged in some mitigation efforts, I find that they failed to undertake mitigation efforts in August 2025 after receiving the Tenant's notice in July 2025. I also find that the Landlords' advertising efforts were limited despite the potential amount of their losses. Additionally, both parties cited certain terms and conditions of the tenancy agreement as reasons some prospective tenants declined to rent the Unit.

- [64] The Unit may have been re-rented earlier had the Landlords begun mitigation in August or modified certain terms and conditions. I find it reasonable to conclude that these factors likely reduced the number of prospective tenants willing to rent the Unit.

- [65] Similar to Order LR20-39, I find that both parties contributed to the rental losses. The Tenant vacated prior to the end of the fixed-term tenancy and remained liable under the agreement after vacating the Unit. The Landlords only partially met their obligations and failed to undertake sufficient mitigation efforts proportionate to the size and duration of their potential losses.

- [66] In these circumstances, I find the Landlords have only established part of their claim. The Landlords did not undertake mitigation efforts during August 2025 despite having received notice that the Tenant intended to end the tenancy, and I find it reasonable to reduce the Landlords' claim by the equivalent of one month's rent.
- [67] Additionally, given the limited advertising efforts and restrictive tenancy terms that likely reduced the number of prospective tenants, I find a further reduction equivalent to one month's rent to be appropriate.
- [68] I find that the Landlords have established a claim of \$6,688.71 (4 months x \$1,450.00) + (19 days / 31 days x \$1,450.00).
- [69] The Landlords will keep the security deposit, including interest, to offset the lost rental income.

CONCLUSION

- [70] The Tenant owes the Landlords rent in the amount of \$6,688.71.
- [71] The Landlords will keep the security deposit plus interest of \$1,487.60.
- [72] The Tenant must pay the Landlords \$5,201.11 by the timeline below.
- [73] The Amended Application is allowed in part.
- [74] My calculations are as follows:

Item	Amount
Security deposit	(\$1,450.00)
Interest (June 30/25 – June 25/26)	(\$37.60)
Rent	\$6,688.71
Total	\$5,201.11

IT IS THEREFORE ORDERED THAT

1. The Landlords will keep the security deposit plus interest of \$1,487.60.
2. The Tenant must pay the Landlords \$5,201.11 by August 25, 2026.

DATED at Charlottetown, Prince Edward Island, this 25th day of June, 2026.

(sgd.) Mitch King

Mitch King
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.