

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (the "Act").
- [2] The Tenant claims against the Landlord for the return of pro-rated rent, the return of their security deposit and double the security deposit compensation under section 40 of the *Act*.

DISPOSITION

- [3] The Tenant's claim for pro-rated rent is denied.
- [4] The Tenant's claim for the return of the security deposit and double the security deposit is allowed, in the amount of \$1,454.74, including security deposit interest.

BACKGROUND

- [5] The Unit is a two-bedroom, one-bathroom apartment located in a four-unit building that the Landlord has owned since 2012.
- [6] The Landlord and the Tenant and another tenant ("DS") entered into a written, fixed-term tenancy agreement from June 1, 2023 to May 31, 2024 (the "Tenancy Agreement"). On April 29, 2023 the Tenant paid the Landlord a \$700.00 security deposit. Rent in the amount of \$1,400.00 was due on the first day of the month.
- [7] On September 28, 2023 DS moved out of the Unit.
- [8] On October 15, 2023 the Tenant moved out of the Unit.
- [9] On April 15, 2024 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office for the return of pro-rated rent, the return of their security deposit and double the security deposit (the "Application").
- [10] The Rental Office tele-hearing was previously scheduled and re-scheduled on three occasions.
- [11] On May 20, 2026 the Rental Office sent the parties a third re-scheduled notice of a tele-hearing for June 25, 2026.
- [12] On June 18, 2026 the Rental Office sent the parties a 29-page PDF evidence package.
- [13] On June 25, 2026 the Landlord's representative (the "Representative") participated in a tele-hearing. I emailed the Tenant with the information necessary to join the tele-hearing. About ten minutes after the scheduled time the hearing proceeded in the Tenant's absence. The Tenant later emailed the Rental Office informing that they would not be able to attend the tele-hearing.

ISSUES

- A. Must the Landlord return pro-rated rent to the Tenant?
- B. Must the Landlord compensate the Tenant double the security deposit?

ANALYSIS**A. Must the Landlord return pro-rated rent to the Tenant?**

- [14] The Application claims for two days of pro-rated rent for October 30 and 31, 2023. The Application claims that the Landlord received double rent.
- [15] The Landlord denied receiving double rent or any other payment for the Unit for October of 2023 other than the Tenant's rent. The Landlord stated that the new tenancy agreement fixed-term started on November 1, 2023. The Landlord permitted the new tenant to move in early.
- [16] Based upon the evidence presented, I am not satisfied that the Landlord received any other income for October of 2023, other than the payment made by the Tenant.
- [17] Further, the Landlord permitting the new tenant to move-in early is connected to the Landlord's successful efforts to mitigate rental income losses for the balance of the Tenancy Agreement's fixed-term. As a result, this claim is denied.

B. Must the Landlord compensate the Tenant double the security deposit?

- [18] I find that the Tenancy Agreement ended on or about October 31, 2023 due to the commencement of the new tenant's tenancy agreement on November 1, 2023.
- [19] 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.

- [20] The Landlord has not returned any of the security deposit funds nor filed an application with the Rental Office. As a result, I find that the Landlord did not comply with the 15-day timeline in subsection 40(1) of the Act.
- [21] The Landlord argued that the Tenant could only claim half of the security deposit because the Tenancy Agreement had two tenants, being the Tenant and DS.

- [22] However, the Tenant's bank statement shows the security deposit payment was made solely from the Tenant's bank account. The communications submitted regarding the security deposit payment to the Landlord were solely between the Landlord and the Tenant. The evidence presented establishes that the Tenant is the sole, proper recipient of the security deposit funds.
- [23] Further, the timeline for DS to file a claim under the *Act* has expired.
- [24] Therefore, the Landlord is not at risk of DS filing a valid application with the Rental Office for the Landlord to make a duplicate payment of the security deposit funds ordered in this decision.
- [25] Any adjustment regarding the security deposit payment solely to the Tenant would be a matter directly between the Tenant and DS.
- [26] There is no evidence of any earlier Rental Office proceedings or orders between the Landlord and the Tenant. Therefore, the Landlord was not authorized to keep the security deposit under subsection 40(2).
- [27] In Order LR25-37¹ the Island Regulatory and Appeals Commission determined that a text-message exchange between a landlord and a tenant was essentially an agreement authorizing the Landlord to keep the security deposit under clause 40(3)(a).
- [28] In this case, the Landlord and the Tenant had the following text-message exchange on Wednesday, September 27, 2023:
- | | |
|----------|---|
| Landlord | <i>"Hey [Tenant] do u mind if I have viewings of your apt between 12-2 pm Sunday."</i> |
| Tenant | <i>"Perfect. No problem at all. Gives me time to get the place properly cleaned :)"</i> |
| Landlord | <i>"Thanks"</i> |
| Tenant | <i>"No, thank-you."</i> |
| | <i>And I understand that I'll owe you for whatever it costs to replace me , as I broke the one year lease. So just let me know no problem at all.</i> |
| | <i>Thanks again :)"</i> |
- [29] For the reasons below, I find that the parties did not agree to the Landlord keeping the security deposit.
- [30] The text-message exchange on September 27, 2023 does not specifically mention the security deposit.
- [31] The exchange is in the context of the Landlord showing the Unit to potential tenants and the Tenant vacating the Unit several months before the end of the one-year-fixed-term. In this context "*whatever it costs*" indicates that the "*costs*" would be rental income losses.
- [32] The Landlord submitted into evidence a \$250.00 receipt dated "*Oct 2023*" for the Representative's daughter cleaning the Unit.

¹ <https://irac.pe.ca/wp-content/uploads/Order-LR25-37.pdf>

- [33] I note that in the text-message exchange, above, the Tenant stated that they would have “*time to get the place properly cleaned*” before potential tenants viewed the Unit. This is inconsistent with the Tenant agreeing to a security deposit deduction for cleaning.
- [34] The Tenant also stated near the end of the exchange “*So just let me know no problem at all*” regarding the Landlord’s replacements “*costs.*” I find that the Tenant required the Landlord to provide some details regarding any “*costs.*” The evidence presented does not establish that the Landlord responded to the Tenant with these details. Instead, the Landlord withheld the entire security deposit.
- [35] The Landlord argued that the Tenant breached a fixed-term agreement and the Landlord should therefore be permitted to keep the security deposit. However, the breach of a fixed-term tenancy agreement alone, without any actual rental income loss, is not a valid basis for keeping a security deposit. Further, the Landlord did not file an application against the Tenant.
- [36] The evidence presented establishes that the Landlord had the Tenant’s email address, which the Landlord could have used to arrange for returning the security deposit. I note that the Landlord did not return any of the security deposit, even after the Tenant filed and served the Application.
- [37] For these reasons, I find that the Landlord did not comply with section 40 of the Act. The Landlord must compensate the Tenant double the security deposit by operation of law under subsection 40(4). The Landlord must also pay the Tenant security deposit interest in accordance with subsection 14(9).
- [38] The Tenant has established a security deposit compensation claim against the Landlord in the amount of \$1,454.74, calculated as follows:

Item	Amount
Security deposit	\$700.00
Interest 29 APR 2023 to 2 JUL 2026)	\$54.74
Double security deposit	\$700.00
Total	\$1,454.74

- [39] I will not consider any offset regarding the Landlord’s \$250.00 cleaning receipt because the Landlord did not file any application against the Tenant with the Rental Office.

Tenancy Agreement Content

- [40] The Landlord used an outdated form for the Tenancy Agreement, being a form that was prescribed under the previous legislation, the *Rental of Residential Property Act*.
- [41] Since the *Residential Tenancy Act* came into force on April 8, 2023, landlords on Prince Edward Island have been required to prepare written tenancy agreements containing specific information.
- [42] Subsections 11(1) and (2) 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.**

[43] The Landlord must ensure that all tenancy agreement content complies with the Act.

[44] The standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office's website at the following link: <https://peirentaloffice.ca/forms/>

CONCLUSION

[45] The Tenant's claim for pro-rated rent is denied.

[46] The Tenant's claim for the return of the security deposit and double the security deposit is allowed, in the amount of \$1,454.74, including security deposit interest. This payment must be made by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant the amount of \$1,454.74 by August 3, 2026.

DATED at Charlottetown, Prince Edward Island, this 2nd day of July, 2026.

(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.