

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 double the security deposit from the Landlords.
- [3] The Landlords argue that the tenancy does not end until August 30, 2026 and it is too early to return the security deposit. The Landlords seek compensation from the Tenant for work related to a new tenant occupying the Unit, in the amount of \$425.00.

DISPOSITION

- [4] I find that the tenancy was assigned effective February 28, 2026.
- [5] I find that the Landlords must pay the Tenant the security deposit, subsection 40(4) compensation for part of the security deposit, and security deposit interest, in the total amount of \$1,153.40.
- [6] The Landlords' compensation claim is denied.

BACKGROUND

- [7] The Unit is a room rental with shared services and facilities in a two-story, six-bedroom, two-bathroom house that the Landlords have owned for four years.
- [8] The Landlords and the Tenant entered into a written, fixed-term tenancy agreement from December 18, 2025 to August 30, 2026 (the "Tenancy Agreement"). On December 11, 2025 the Tenant paid the Landlords a \$785.00 security deposit. Rent in the amount of \$785.00 was due on the first day of the month.
- [9] On February 7, 2026 the Tenant emailed the Landlords stating that they planned on moving out of the Unit.
- [10] On February 28, 2026 the Tenant moved out of the Unit. Around this time the Landlords and a new tenant signed a tenancy agreement for the Unit.
- [11] On March 14, 2026 the Landlords e-Transferred the Tenant \$425.00 of the security deposit funds. The Tenant deposited the Landlords' e-Transfer and then returned these funds to the Landlords.
- [12] On May 4, 2026 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office seeking compensation for double the security deposit (the "Tenant Application").
- [13] On May 12, 2026 the Rental Office sent the parties notice of a tele-hearing scheduled for June 11, 2026.
- [14] On May 28, 2026 the Landlords filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office seeking compensation for assignment expenses, which was amended on June 2, 2026 (the "Landlord Application").
- [15] On June 5, 2026 the Rental Office sent the parties a 159-page PDF evidence package.
- [16] On June 11, 2026 the Tenant and the Landlords participated in the Rental Office tele-hearing. The parties confirmed that they received the evidence package and that all documents and evidence submitted to the Rental Office were included. The parties provided additional evidence and submissions after the hearing.

ISSUES

- A. Was the Tenancy Agreement assigned?
- B. Must the Landlords pay the Tenant double the security deposit?
- C. Must the Tenant compensate the Landlords?

ANALYSIS**A. Was the Tenancy Agreement assigned?**

[17] For the reasons below, I find that the Tenancy Agreement was assigned as of February 28, 2026.

Tenancy Agreement Content

- [18] The Landlords used an outdated tenancy agreement form. The Tenancy Agreement's first six pages are the *Form 1 - Standard Form of Rental Agreement*.
- [19] This form is based upon the *Rental of Residential Property Act* (the "*Former Act*") and the related regulations which have not been in force since April 7, 2023.
- [20] The Tenancy Agreement did not start until December 18, 2025, over two and a half years after the *Former Act* expired. The standard wording refers to legislation which is no longer applicable.
- [21] During the hearing the Landlords referred to a right to sublet for a fixed-term tenancy of six months or more. This was a statutory condition in clause 6.5. of the *Former Act* and the prescribed standard form under the former regulations.
- [22] The Tenancy Agreement's standard wording does not inform the parties of their correct legal rights and obligations.
- [23] The *Residential Tenancy Act* has been in force since April 8, 2023. The current standard form is the *Form 1 - Standard Form of Tenancy Agreement*, which is available on the Rental Office's website: <https://peirentaloffice.ca/forms/>
- [24] Sections 10 and 11 of the *Residential Tenancy Act* (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;

- [25] 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 obligations regarding many aspects of a typical landlord-tenant relationship during a tenancy. The inclusion of these provisions in tenancy agreements helps prevent confusion regarding the proper processes that landlords and tenants need to follow.
- [26] Section 30 addresses rights, responsibilities and procedures for assigning and subletting tenancy agreements.
- [27] Confusion regarding the Tenant assigning or subletting the Unit may have been avoided had the Landlords included Division 4, as required by the *Act*.

Subletting and Assignment

- [28] Subletting and assignment are two distinct processes where a tenant can transfer their use of a rental unit to another person.
- [29] When a subletting arrangement exists there are two distinct agreements. There is a first tenancy agreement between the landlord and the tenant. There is a second subletting agreement between the tenant (who is also a sublandlord) and the subtenant.
- [30] The subtenant pays rent to the sublandlord/tenant who pays rent to the landlord. There is frequently a security deposit held by the landlord for the first tenancy agreement and a second separate security deposit held by the sublandlord/tenant for the subletting agreement. The original tenant can reoccupy the rental unit after the subtenancy ends.
- [31] When a tenancy agreement is assigned, the new tenant replaces the original tenant and occupies the rental unit. A single, direct tenancy agreement exists between the landlord and the new tenant and the original tenant has no right to reoccupy the rental unit when the new tenant moves out.
- [32] In this case an assignment would be a more suitable option because the Tenant did not intend to move back into the Unit. The Tenant wanted to move out because the Tenant wanted to be closer to the university.
- [33] The Landlords understood that the Tenant wanted to move out permanently according to the Landlords' email to the Tenant on February 28, 2026 at 1:20 p.m., which states in part:
- "So, it is very clear that you wanted to move out for the remainder of your lease and also agreed that we should consider a new rental agreement for (subtenant) as it is better for him and for you..."*
- [34] A sublet would have been more suitable if the Tenant had planned to temporarily move out of the Unit and move back in later.
- [35] I note that subsection 30(1) of the *Act* provided the Tenant with a right to sublet **or** assign the Unit.
- [36] However, the Tenancy Agreement Schedule "D" additional terms only provide the process for subletting. Clause 2, D1 states as follows:
- "This is a **fixed-term** rental agreement. When the fixed-term agreement is signed by both Tenant and Landlord, the Tenant is fully responsible for the terms and conditions of the agreement until the end date. The Tenant must pay the rent until the end date of the current agreement.*
- If the Tenant wants to move out of their room before the end date of the fixed-term agreement, **they have an option of subletting their room**. If the Tenant wishes to sublet their room, they must inform the Landlord and seek the Landlord's permission/approval subject to Schedule A. 5. The Tenant is required to inform the Landlord about their subletting option at least 30 days prior to their expected move-out date. Based on the information received from the Tenant, the Landlord will advise the Tenant about the subletting process and provide the standard subletting procedure accordingly."*
- [37] The requirement in clause 2 for the Tenant to pay rent to the fixed-term end date conflicts with the Tenant's section 30 right to assign the Tenancy Agreement.
- [38] Subsection 30(5) provides the consequences of an assignment. The Tenant's obligation to pay rent would be limited to the period before the assignment. The Tenant would not be responsible for rent for the period after the assignment to the end of the fixed-term.

- [39] Section 5 of the Act voids any waiver or release of the Tenant's rights in the Tenancy Agreement, stating 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.

- [40] For these reasons, I find that the Landlords' Tenancy Agreement did not inform the Tenant of the right to assign the agreement. The Landlords could not restrict the Tenant solely to subletting the Unit because the Tenant had a statutory right of assignment.
- [41] The Landlords have made many criticisms that the Tenant did not follow the proper process in the Tenancy Agreement. However, the Landlords created a flawed process by using the wrong tenancy agreement form and including terms inconsistent with the Act.

Effective Assignment

- [42] For the reasons below, I find that the parties effectively assigned the Tenancy Agreement to a new tenant.
- [43] The Tenant found a replacement tenant named Stefano, who moved into the Unit shortly after the Tenant moved out on February 28, 2026.
- [44] Stefano originally paid the Tenant a \$785.00 security deposit and \$785.00 for March 2026 rent.
- [45] On February 28, 2026 the Tenant emailed the Landlords and confirmed that the Tenant had received these funds. The Landlords responded an hour later with an email which stated in part:

*"We want to remind you that you illegally collected the deposit and rent from (subtenant). **Have we sent the subletting agreement to you and him to sign, then endorse by us?** Since we have not sent the subletting agreement to you and (subtenant), you are not allowed to collect the deposit and rent from him. That is completely illegal!"*

- [46] The Landlords stated that the Tenant made an error because the Tenant requested and received Stefano's security deposit and rent before the subletting agreement was reviewed and signed by the Landlords.
- [47] The Landlords sent the Tenant a further email on February 28, 2026 which stated in part:

"2. If you have already received the deposit and rent of March from (subtenant), you should give the money back to him under the witness of [name] during the meeting, then he can pay the deposit and rent to her directly because he has signed the agreement with us, not with you.

3. Once (subtenant) has paid the deposit and rent to us; that is, your subletting is successful and we can carry out the official move-out process for you.

4. Whenever we receive the move-out process report, we will calculate the subletting fee and fixing & repairs fees if applied, then refund the remaining of the deposit back to you within 10 days.

We hope it is clear now..."

- [48] The Landlords' email indicates that the Tenancy Agreement was assigned to Stefano because he signed an agreement directly with the Landlords, not the Tenant.

- [49] The Landlords submitted into evidence a copy of Stefano's agreement, which also uses the expired *Form 1 - Standard Form of Rental Agreement*. This agreement lists the Landlords on behalf of the Tenant as the landlord.
- [50] However, the terms of Stefano's agreement indicate an assignment. Payments are directed to be made by Stefano to the Landlords directly by cash. The Tenant did not sign this agreement and the Tenant was not provided with the agreement until after the tele-hearing.
- [51] Further, the actions of the parties establish that the parties effectively assigned the Tenancy Agreement.
- [52] The Tenant returned to Stefano the security deposit and rent. Stefano then paid these funds directly to the Landlords.
- [53] Stefano also paid the monthly rent for April and May directly to the Landlords. Stefano moved out of the Unit part-way through May and the Landlords returned pro-rated rent to Stefano. The Landlords stated that they communicated directly with Stefano and did not contact the Tenant.
- [54] The Landlords stated that a new person named Nicky moved into the Unit part-way through May. The Landlords did not speak with the Tenant regarding Nicky moving into the Unit. The Tenant did not know that a person named Nicky had moved in.
- [55] The Landlords argue that the Tenant's Tenancy Agreement is still in place.
- [56] However, the evidence presented establishes that the Landlords effectively assigned the Tenancy Agreement to Stefano on or about February 28, 2026, thereby ending the Tenant's Tenancy Agreement.

B. Must the Landlords pay the Tenant double the security deposit?

- [57] For the reasons below, I find that the Landlords must pay the Tenant subsection 40(4) compensation for the security deposit balance of \$360.00.
- [58] 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.*

- [59] The Landlords were required to file an application with the Rental Office or return the security deposit within 15 days of the date that the tenancy agreement was assigned, which occurred on February 28, 2026.
- [60] The Landlords e-Transferred the Tenant \$425.00 on March 14, 2026. The Tenant deposited the funds and then returned the funds to the Landlords the same day.
- [61] I find that the Landlords complied with subsection 40(1) for part of the security deposit, but the Landlords deliberately withheld \$360.00 and did not file a Rental Office application within 15 days of the date the tenancy was assigned.
- [62] The parties did not have an agreement for the Landlords to keep the security deposit. The Landlords and the Tenant were not involved in previous Rental Office hearings and there is no earlier order authorizing the Landlords to keep the security deposit.
- [63] For these reasons, I find that the Landlords are required to pay the Tenant double the security deposit balance withheld, in the amount of \$360.00, under subsection 40(4) by operation of law.
- [64] I find that the Landlords must pay the Tenant the total amount of \$1,153.40 by the timeline below, calculated as follows:

Item	Amount
Security deposit	\$785.00
Security deposit interest on \$785.00 (11 DEC 2025 to 13 MAR 2026)	\$5.39
Security deposit interest on \$360.00 (14 MAR 2026 to 3 JUL 2026)	\$3.01
Subsection 40(4) compensation	\$360.00
Total:	\$1,153.40

Automatic Security Deposit Charge

- [65] The Tenancy Agreement clause 9, D4 states as follows:

"In the event of late or improper notice to vacate or any breach of this agreement, the Tenant agrees that the following charges will be made against the security & damage deposit: a \$1000.00 leasing fee, advertising costs, the continual loss of rent until the month of the new tenancy, and any other necessary disbursements required for cleaning, painting, and other repairs and maintenance. Any deficiency is to be borne by the departing Tenant."

- [66] I note that this clause is invalid under subsection 15(c) of the Act. The Landlords are prohibited from including this term in the Tenancy Agreement because it claims to allow the Landlords to automatically keep the security deposit.

C. Must the Tenant compensate the Landlords?

- [67] The Landlords claim the amount of \$585.00 for the effort and time spent regarding the assignment of the Unit.
- [68] However, the Landlords did not include in the Tenancy Agreement the proper process for subletting and assigning the Tenancy Agreement required by section 11 of the Act. The Tenancy Agreement also included terms that were inconsistent with the Tenant's right to assign this agreement, as determined above.
- [69] The Landlords may have avoided spending a significant amount of time assigning the Unit had the Landlords included the correct process.

[70] Subsection 30(4) of the Act limits the Landlords to only charging for expenses actually incurred. The evidence presented does not establish that the Landlords had payments or outlays of money specifically resulting from the assignment of the Unit from the Tenant to Stefano.

[71] For these reasons, the Landlord Application is denied.

Mandatory Tenancy Agreement Information

[72] Since April 8, 2023 landlords on Prince Edward Island have been required to prepare written tenancy agreements containing specific information.

[73] 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.*

[74] The Landlords must ensure that all of their tenancy agreements contain this mandatory information.

Rent Discounts and Late Rent Fees

[75] The Tenancy Agreement states that the Unit's rent is "\$785 (*discounted from \$865 per Month*)."

[76] I note that rent discounts have been determined to be invalid in previous Rental Office decisions (see Order LD26-075 at the following website: <https://peirentaloffice.ca/wp-content/uploads/LD26-075.pdf>).

[77] Clause 11, D1 also provides for late rent fees. However, a previous Island Regulatory and Appeals Commission decision determined that late rent fees are not permitted under the Act (see paragraph 28 of Order LR25-44 at the following website: <https://irac.pe.ca/wp-content/uploads/Order-LR25-44.pdf>).

CONCLUSION

[78] The Tenant Application is allowed in part. The Landlords must pay the Tenant the amount of \$1,153.50 by the timeline below.

[79] The Landlord Application is denied.

IT IS THEREFORE ORDERED THAT

1. The Landlords must pay the Tenant the amount of \$1,153.50 by August 3, 2026.

DATED at Charlottetown, Prince Edward Island, this 3rd 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.