INTRODUCTION

[1] This decision addresses the Landlord's application filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act*, cap. R-13.11 (the "*Act*").

[2] The Landlord seeks an Order for rent owing and compensation for repairs, and garbage removal.

BACKGROUND

[3] On February 15, 2022 the parties signed a written, fixed-term tenancy agreement for the Unit. At the end of the fixed-term the tenancy continued on a monthly basis. Rent in the amount of $1,600.00 was due on the first day of the month. A $1,600.00 security deposit was paid.

[4] On April 1, 2022 the Tenant moved into the Unit.

[5] On December 31, 2025 the Tenant gave up possession of the Unit and the tenancy ended by mutual agreement.

[6] On February 5, 2026 the Landlord e-mailed the Rental Office and the Tenant a *Form 2(B) Landlord Application to Determine Dispute* seeking rent owing and compensation for repairs and garbage removal (the "Application").

[7] On April 29, 2026 the Rental Office e-mailed the parties notice of a tele-hearing scheduled for June 9, 2026.

[8] On May 28, 2026 the Rental Office e-mailed the parties a 29-page PDF and 1-video evidence package.

[9] On June 9, 2026 the Landlord, the Tenant and the Tenant's witness ("TW") participated in the tele-hearing. The parties confirmed that they received the evidence package and confirmed that all evidence submitted to the Rental Office was included in the evidence package.

DISPOSITION

[10] The Landlord established rent owing, repairs and garbage removal claims against the Tenant, in the total amount of $5,232.76.

[11] The Landlord did not comply with section 40 of the *Act*. Therefore, the Landlord must compensate the Tenant double the security deposit, and the original amount of the security deposit plus interest, in the total amount of $3,338.54.

[12] These claims are offset. The Tenant must pay the Landlord $1,894.22 by the timeline below.

ISSUES

A. Must the Tenant pay rent and compensation for repairs and garbage removal to the Landlord?

B. Did the parties have an agreement for the determination of the security deposit?

ANALYSIS & FINDINGS

A. Must the Tenant pay rent and compensation for repairs and garbage removal to the Landlord?

[13] When a party makes an application to the Rental Office, the onus is on that party to support their application with convincing evidence. In this case, the Landlord has the onus to prove her claims on the civil standard of a balance of probabilities.

[14] The Landlord is seeking rent owing, in the amount of $4,800.00, compensation for repairs, in the amount of $3,238.00, and garbage removal, in the amount of $1,089.60.

Rent owing

[15] I find that the parties' evidence establishes that the Tenant owes the Landlord rent for October 2025, November 2025 and December 2025, in the total amount of $4,800.00 ($1,600.00 * 3 months).

[16] The Landlord's rent owing claim is established based on the Tenant's admission of owing the outstanding rent claimed by the Landlord.

Repairs & garbage removal

[17] Clause 39(2)(a) of the *Act* provides the cleanliness and damage standard at the end of the tenancy, stating as follows:

> *When a tenant vacates a rental unit, the tenant shall*
> *(a) leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear…*

[18] The Landlord provided photographs of the Unit, showing damage to a door, the repair of the door, the ceiling, garbage bags in the Unit's shed, receipts, banking statements and a written submission by the Landlord's realtor, Kevin Gallant.

[19] The Landlord stated that the Unit was last painted in 2022, and after the tenancy ended, the Unit's walls and ceiling were painted. The Landlord stated that there was a significant leak from the upstairs toilet, which caused water damage to the walls and ceiling.

[20] The Landlord stated that the toilet leak was originally repaired. However, a new leak must have started, which the Tenant never reported.

[21] The Landlord stated that there was significant damage to a door in the Unit, that required repairs.

[22] The Landlord stated that there was a lot of garbage left in the Unit and in the shed.

[23] The Landlord's realtor's written submission stated, in part:

> "*There was damage to some walls, a few doors, the kitchen flooring and about 6-8 light bulbs needed to be replaced. The outside compost bin and waste bins were overflowing and not sorted. The shed contained a large number of blue bags (pictures were sent to [*redacted*]), which she led [*redacted*] to believe had been removed.*"

[24] The Tenant disputed some of the Landlord's claims.

[25] The Tenant admitted that the damage to the door was caused during the tenancy.

[26] The Tenant stated that there was no damage to the Unit's walls and the damage to the ceiling was caused by the leak in the toilet. The Tenant stated that she reported the leak to the Landlord. The Tenant stated that the video submitted into evidence was from 2025.

[27] The Tenant stated that no garbage was left inside the Unit, however, admitted to leaving some garbage bags in the Unit's shed.

[28] TW stated that he assisted the Tenant with moving out of the Unit. TW stated that all the Tenant's personal items were removed from inside the Unit. TW stated that he did not witness any garbage left inside the Unit.

[29] I find that the Landlord's evidence establishes her claims for repairs and garbage removal in part.

[30] Generally, landlords are required to complete move-in and move-out inspections with their tenants. The *Form 5 – Landlord Condition Inspection Report* is required to be completed as a result of the inspections. However, I note that in this case, the tenancy started before the *Act* came into effect. Therefore, the Landlord was not required to complete the move-in and move-out inspection reports under section 109 of the *Act*.

[31] The Landlord's evidence includes some photographs, receipts and a written submission not under affirmation. The Landlord was unable to provide much direct evidence as the Landlord does not live in the Province. The Landlord relied upon what the realtor and painter communicated to her. However, the Landlord did not have any witnesses participate in the tele-hearing to provide direct evidence under affirmation.

[32] The Tenant's evidence provided admissions to some of the Landlord's claims and the denial of other claims.

[33] I find that where the Tenant denied the Landlord's claims, the Landlord failed to provide convincing evidence to prove her claims on a balance of probabilities.

[34] I find that the Landlord's claims are established where the Tenant admitted to causing some damage to the Unit which is beyond reasonable wear and tear and leaving garbage in the Unit's shed.

[35] Based on the evidence presented regarding the costs associated with the repairs and removing garbage, I find that the Tenant is responsible for 10% of the repairs ($323.80) and 10% of the garbage removal ($108.96).

[36] I find that the Landlord's claims are established in part, in the total amount of $432.76.

B. Did the parties have an agreement for the determination of the security deposit?

[37] During the tele-hearing, I asked the Landlord why she was not seeking to keep the Tenant's security deposit.

[38] The Landlord stated that the parties had agreed during the tenancy that the Landlord would keep the Tenant's security deposit for previously unpaid rent. The Landlord was unsure if any written agreement existed.

[39] The Tenant disputed the Landlord's claim that she agreed to let the Landlord keep the security deposit.

[40] The Landlord did not submit any evidence to corroborate a written agreement existed between the parties.

[41] 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.

[42] In Order LR25-33, the Commission commented on a landlord's section 40 requirements stating:

> "*As considered in Commission appeal Order LR25-17 Xianfeng Yue and Ying Zhao v. Steve Dyer (see especially paragraphs 18-21), section 40 of the Act requires the return of the security deposit within 15 days subject to specific exceptions and if a landlord fails to follow those requirements the penalty of a double deposit award is imposed under subsection 40(4). Neither the Rental Office nor the Commission on appeal has been given any discretion to allow for forgiveness of a landlord's section 40 non-compliance*."[1]

[43] The evidence presented establishes that the tenancy ended on December 31, 2025. This means that the Landlord had fifteen days (January 15, 2026) to either return the security deposit, plus interest or file an application with the Rental Office. The evidence establishes that the Landlord did neither. The Application was not filed with the Rental Office until February 5, 2026.

[44] The Landlord's position relies upon an exception under clause 40(3)(a). However, I find that the parties must agree *in writing* and in this case, the parties have provided disputed evidence regarding the agreement. The Landlord has provided insufficient evidence to support a finding of any agreement between the parties related to the retention of the security deposit.

[45] Therefore, I find that the Landlord did not comply with section 40 of the *Act*. By operation of law, the Landlord must pay the Tenant double the security deposit under subsection 40(4), and the original amount of the security deposit plus interest, in the total amount of $3,338.54.

[46] The Tenant's claim offsets against the Landlord's claim. The Application is allowed in part.

[1] *Jiayi "Diana" Dai v. Logan Moonesawmy* 2025 PEIIRAC 34, Order LR25-33, para. 35.

[47] The Tenant must pay the Landlord $1,894.22 by the timeline below, calculated as follows:

Item	Amount
Rent owing ($1,600.00 * 3 months)	$4,800.00
Repairs 10% of $3,238.00	$323.80
Garbage removal 10% of $1,089.63	$108.96
Less security deposit	-$1,600.00
Less interest (15 FEB 2022 to 06 JUL 2026)	-$138.54
Less double the security deposit	-$1,600.00
Total	**$1,894.22**

IT IS THEREFORE ORDERED THAT

1. The Tenant must pay the Landlord $1,894.22 by August 6, 2026.

DATED at Charlottetown, Prince Edward Island, this 6th day of July, 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.