

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 compensation for double the security deposit.
- [3] The Landlord seeks to keep the security deposit and additional compensation for rent owing and repairs.

BACKGROUND

- [4] The Unit is a two-bedroom, two-bathroom apartment that is 1,083 square feet in size. The Unit is located in a 45-unit building (the “Residential Property”) that the Landlord finished building around June 1, 2025.
- [5] The Landlord and the Tenant entered into a written, fixed-term tenancy agreement from August 15, 2025 to August 31, 2026 (the “Tenancy Agreement”). A security deposit of \$2,390.00 was paid on November 10, 2025. Rent in the amount of \$2,390.00 and other charges in the amount of \$170.00 were due on the first day of the month. The Tenant had previously lived in another unit in the Residential Property.
- [6] In early February of 2026 the Tenant vacated the Unit.
- [7] The parties dispute when the tenancy ended.
- [8] On April 27, 2026 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the “Tenant Application”) with the Rental Office seeking double the security deposit.
- [9] On May 15, 2026 the Rental Office emailed the parties notice of a tele-hearing scheduled for June 18, 2026.
- [10] On June 17, 2026 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Landlord Application”) with the Rental Office seeking to keep the Tenant’s security deposit and additional compensation, with the claims totaling \$5,708.21. The scheduled hearing was postponed.
- [11] On July 8, 2026 the Rental Office emailed the parties a rescheduled notice of a tele-hearing scheduled for August 4, 2026.
- [12] On July 22, 2026 the Rental Office emailed the parties an 86-page PDF evidence package (“EP”).
- [13] On August 4, 2026 the Tenant, the Tenant’s interpreter and the Landlord’s representative (the “Representative”) participated in the hearing. The parties confirmed that they received the evidence package and they were not aware of any missing documents.

DISPOSITION

- [14] The Tenant has established a claim for double the security deposit and security deposit interest, in the amount of \$4,829.75.
- [15] The Landlord has established rent owing and damage repairs, in the amount of \$316.43.
- [16] The Landlord must pay the Tenant the net amount of \$4,513.32 by the timeline below.

ISSUES

- A. What date did the tenancy end? Does the Tenant owe rent to the Landlord?
- B. Has the Tenant established a claim for double the security deposit under section 40?
- C. Has the Landlord established claims against the Tenant for repairs?

ANALYSIS**A. What date did the tenancy end? Does the Tenant owe rent to the Landlord?**

- [17] There is an issue in this case regarding when the tenancy ended.
- [18] The Tenant argued that they should not be responsible for February and March 2026 rent because they gave the Landlord 45 days' notice before moving out of the Unit.
- [19] The Landlord claims that the Tenant is responsible for two months of rent because the Tenant moved out before the fixed-term ended.
- [20] Normally, the earliest day that written notice would end a fixed-term tenancy would be the last day of the fixed-term, in this case being August 31, 2026.
- [21] Subsection 55(3) of the Act 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.*

- [22] However, the Landlord included clause 18 in the "TENANT'S COVENANTS" part of the Tenancy Agreement, which states:

"The Tenant covenants with the Landlord as follows:

...

- 18. To provide the Landlord with thirty (30) days written notice to vacate the Premises, if the Tenant intends to do so."*

- [23] The Representative stated that this clause was applicable only after the one-year term expired and the tenancy is month-to-month.
- [24] I note that a different part of the Tenancy Agreement provides that the one-year term may become a month-to-month term. In the "General" part of the Tenancy Agreement the following is stated:

- "7. In the event that the Tenant remains in possession of the Premises after the expiration of the Term without objection by the Landlord and without any written agreement otherwise providing, the Tenant shall be deemed to be a tenant from month-to-month and subject to the provisions of this Lease, as applicable, including the annual indexing and adjustment of the Rent as allowed by the Island Regulatory and Appeals Commission."*

- [25] The Tenancy Agreement does not limit clause 18 solely to the period after the one-year-fixed-term ends. Clause 7 clarifies that clause 18 applies to both the fixed-term and the month-to-month term.

- [26] The Act permits the Landlord to provide the Tenant with a more favourable right to end the tenancy compared to the notice requirements in section 55 of the Act.
- [27] Section 5 of the Act protected only the Tenant from waiving or releasing rights, benefits and protections. There is no comparable protection for the Landlord.
- [28] Section 5 states 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.*
- [29] I find that the Landlord's inclusion of clause 18 in the Tenancy Agreement permitted the Tenant to end the tenancy with thirty-days written notice.
- [30] The Tenant provided the Landlord with written notice on December 11, 2025 (EP26) and the vacate date was later updated to February 1, 2026, I am satisfied that the Tenant provided the minimum thirty-days notice required by clause 18 of the Tenancy Agreement.
- [31] The Representative stated that he believed the Tenancy Agreement form was received from the Landlord's lawyer and the Landlord prepared the Tenancy Agreement.
- [32] Under the rules for interpreting contracts, an ambiguous provision is construed most strongly against the person who selected the language. This is referred to as the *contra proferentem* rule.
- [33] Under section 101, the common law respecting landlords and tenants applies except as modified or varied by the Act.
- [34] In this case the Landlord was responsible for preparing the Tenancy Agreement and the *contra proferentem* rule applies.
- [35] The Island Regulatory and Appeals Commission (the "Commission") previously applied this rule to a landlord-tenant dispute in Order LR09-07¹
- [36] Although this decision was determined under the former legislation, the *Rental of Residential Property Act*, the same reasoning applies to the dispute between the Landlord and the Tenant.
- [37] In Order LR09-07 the Commission stated as follows:

"The Commission finds that the rental agreement between Mr. Munn and Ms. Baldin was a fixed term rental agreement consisting of the statutory standard form rental agreement combined with the 'lease agreement' prepared by Mr. Munn and signed by Ms. Baldin. However, the "other benefits and obligations" set out in the 'lease agreement' signed by Ms. Baldin would, prima facie [at first sight] apply to the extent that they do not conflict with the Act or the standard form.

In the present matter, there is an apparent conflict between the termination notice provisions of the statutory standard form rental agreement and the 'lease agreement' signed by Ms. Baldin. The standard form agreement requires sixty days notice before the expiry of the term. The 'lease agreement' requires one month's notice. The 'lease agreement' also attempts to permit Mr. Munn to retain the security deposit if Ms. Baldin moves before the termination of the 'lease agreement'.

In Order LD09-057 the Director considered the conflicting notice provisions and offered the following reasoning:

¹ <https://irac.pe.ca/wp-content/uploads/LR09-07.html>

"The lessor [Mr. Munn] argues that he is entitled to two months' notice pursuant to section 11(2) of the Act. The lease prepared by the lessor and signed by both parties provides for one month's notice in writing, and that is the notice provision on which the lessee [Ms. Baldin] relied in giving one month's written notice of her intention to vacate. The Director finds that the lessor had the option of either incorporating the statutory notice provisions into the written lease agreement or remaining silent on the notice that was required. In either of these scenarios, the statutory provisions would apply. However, having voluntarily abridged the statutory notice periods by providing that the lessee may terminate the agreement on one month's written notice to the lessor, the lessor is bound by the terms of the lease agreement.

At first blush, the Director's reasoning would appear to clash with subsections 9(2), 9(4) and 9(6). Prima facie, the notice requirements set out in the statutory standard form rental agreement would prevail.

However, the Commission is mindful that Mr. Munn prepared the 'lease agreement'. The Commission finds that Mr. Munn was aware, or ought to have been aware, of the more stringent requirements for notice set out in the statutory standard form rental agreement. Ms. Baldin relied on the notice requirement contained in the 'lease agreement' and fulfilled this requirement.

Section 9 of the Interpretation Act R.S.P.E.I. 1988, Cap. I-8 (the Interpretation Act) reads as follows:

9. Every enactment shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects. 1981,c.18,s.9.

Black's Law Dictionary, 6th Edition, defines the common law principle of contra proferentum [a contract is interpreted against the person who wrote it] as:

Contra proferentem. Used in connection with the construction of written documents to the effect that an ambiguous provision is construed most strongly against the person who selected the language.

In Combe v. Combe [1951] 2 K.B. 215, [1951] 1 All E.R. 767 (C.A.), Denning L.J. set out his understanding of the common law principle of promissory estoppel:

The principle, as I understand it, is that where one party has, by his words or conduct, made to the other a promise or assurance which was intended to affect the legal relations between them and to be acted on accordingly, then, once the other party has taken him at his word and acted on it, the one who gave the promise or assurance cannot afterwards be allowed to revert to the previous legal relations as if no such promise or assurance had been made by him, but he must accept their legal relations subject to the qualification which he himself has so introduced, even though it is not supported in point of law by any consideration but only by his word.

In the present appeal, the 'lease agreement' was crafted by an experienced landlord. The 'lease agreement' set out a less stringent notice requirement than required under the Act. The tenant followed this less stringent requirement and relied upon it. The Commission finds that the landlord, at common law, is prevented from relying on the more stringent notice requirement in the Act.

The Act prima facie seeks to impose the more stringent notice requirement contained in the statutory standard form rental agreement. The Commission, however, finds that to interpret the Act to override relevant common law principles and doctrines in a situation such as found in the present appeal, would run contrary to the direction set forth in section 9 of the Interpretation Act.

Accordingly, the Commission agrees with the findings of the Director that Mr. Munn has voluntarily abridged the statutory notice periods and is therefore bound by the terms of the 'lease agreement'."

[38] I find that the Landlord's claims for all of February and March 2026 rent are denied because the Tenant ended the tenancy in accordance with clause 18 of the Tenancy Agreement on February 1, 2026.

[39] The Tenant paid rent up to January 31, 2026.

[40] The Tenant is only responsible for one day's rent and other charges for February 1, 2026, in the amount of \$91.43 (1 day divided by 28 days multiplied by \$2,560.00). The Tenant stated that she vacated the Unit around 11:30 p.m. to midnight on February 1, 2026. I find that there is insufficient evidence that the Tenant is responsible for rent and other charges after this date.

B. Has the Tenant established a claim for double the security deposit under section 40?

[41] For the reasons below, I find that the Tenant has established a claim for double the security deposit.

[42] 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.*

[43] The Landlord had to return the security deposit to the Tenant or file an application with the Rental Office within 15 days after the date the tenancy ended.

[44] The tenancy ended on February 1, 2026. I also noted that the Landlord re-rented the Unit as of April 1, 2026. The Landlord did not file an application with the Rental Office until June 17, 2026, well past the fifteen-day timeline for either of these dates. I find that the Landlord did not comply with subsection 40(1)

- [45] There is no evidence of any earlier Rental Office decision authorizing the Landlord to keep the Tenant's security deposit under subsection 40(2).
- [46] The parties did not agree that the Landlord could keep the security deposit under subsection 40(3).
- [47] For these reasons, I find that the Landlord is required to pay the Tenant double the security deposit under subsection 40(4) by operation of law. The Landlord must also pay the Tenant security deposit interest from November 10, 2025 to August 17, 2026, in the amount of \$49.75.
- [48] I find that the Tenant has established claims in the total amount of \$4,829.75, calculated as follows:

Item	Amount
Security deposit	\$2,390.00
Interest (10 NOV 2025 to 17 AUG 2026)	\$49.75
Subsection 40(4) security deposit compensation	\$2,390.00
Total:	\$4,829.75

C. Has the Landlord established claims against the Tenant for repairs?

- [49] Clause 39(2)(a) of the *Act* provides the cleaning and damage standards at the end of a 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...

- [50] The Landlord has the onus to prove their claims against the Tenant on the civil standard of a balance of probabilities.
- [51] The Landlord claims against the Tenant in the amount of \$1,100.00 for repairs to the Unit. The Landlord submitted into evidence photographs of the Unit after the Tenant moved out (EP54 to 62).
- [52] I note that the Tenancy Agreement started on August 15, 2025, over two years after the *Act* came into force. Move-in and move-out inspection reports were mandatory under sections 18 and 38 of the *Act*.
- [53] Landlords must provide tenants with two reasonable opportunities to inspect rental units together. A written inspection report must be completed and signed. Both parties must receive a copy of the report.
- [54] Landlords are required to complete inspection reports and provide their tenants with a copy even when the tenants do not participate in the inspections after having been provided two reasonable opportunities.
- [55] These inspections direct landlords' and tenants' attention to any uncleanliness or damage existing at the beginning and end of the tenancy.
- [56] Landlords are responsible for ensuring that the move-in and move-out inspections are completed.
- [57] When landlords follow this process they have better evidence to support any financial claims.
- [58] Unfortunately, what frequently occurs is that landlords do not follow the mandatory inspection process. Then, the landlords make cleaning and damage claims that are not supported by sufficient evidence.

- [59] When landlords do not follow the mandatory inspection process, their omission is at their own financial peril.
- [60] The Landlord argued that the Tenant failed to report wall damage behind the Unit's washing machine and dryer.
- [61] Although the Unit was new at the beginning of the tenancy, it is unclear when the water damage occurred on the wall behind the washing machine (EP57). The Tenant stated that she never noticed the damage while living in the Unit. The Tenant stated that she only learned of the damage when she received the Landlord's evidence.
- [62] I observe that, with the washing machine and the dryer in place, the wall damage would be obscured. The Landlord may have missed this damage before the Tenant moved in.
- [63] Further, looking at the Landlord's photograph, the nature of the wall damage does not appear to be caused by a wilful or negligent act of the Tenant. Instead, it appears that the damage is due to water connection issues behind the washing machine.
- [64] I find that this claim is denied because I do not know if the wall damage was pre-existing at the beginning of the tenancy. The evidence does not establish that the Tenant caused the damage or was aware of the damage while living in the Unit.
- [65] The Tenant denied putting any holes in the walls (EP60) or altering the area behind a bathroom sink (EP58). The Tenant stated that there was only normal use of these areas.
- [66] I find that the Tenant is not responsible for this damage because the initial condition of these areas is unclear. Although the Unit was new, it is unclear when the caulking was fully completed at the beginning of the tenancy. The Tenant denied removing caulking behind bathroom sinks. I note that these are very minor deficiencies that the Landlord may have overlooked.
- [67] Further, even for a short tenancy, this damage appears to be reasonable wear and tear. I find that the claims for these issues are denied.
- [68] The removal of dark spots in a bathroom sink (EP61) and water marks below light switches (EP62) appear to be issues that could easily be removed or repaired and do not support a compensation claim.
- [69] The Tenant admitted to being responsible for damage caused by the Tenant's dogs. The Tenant estimated that she was responsible for \$200.00 to \$250.00 in damage.
- [70] The Landlord did not submit a detailed breakdown of the \$1,100.00 total claim regarding what amount was attributed to each damaged area.
- [71] Considering the Tenant's admission and the photographs of the dog damaged areas, I find that the amount of \$225.00 is appropriate for the dog damage.
- [72] The Landlord's other repair claims are denied.

Tenant Agreement Content

- [73] The *Residential Tenancy Act* has been in force since April 8, 2023. The Tenancy Agreement is dated October 21, 2025, about two-and-a-half years later.
- [74] 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/>. I note that the standard form includes section 55 of the *Act* in Schedule "B".

- [75] Subsection 11(2) of the Act requires landlords to include the following information in tenancy agreements:

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.*

- [76] The Tenancy Agreement also includes clauses that conflict with the Act. For instance, clause 1 of the "PROVISOS" part states:

"Re-entry for non-payment of rent The Landlord may re-enter the Premises upon nonpayment of Rent."

- [77] This clause conflicts with subsection 51(4) of the Act, which restricts a landlord's ability to regain access, stating as follows:

A landlord shall not regain possession of a rental unit unless

- (a) the tenant has vacated the rental unit or has abandoned the rental unit in accordance with section 42; or*
- (b) the Director has made an order directing the tenant to vacate the rental unit and the order has been sent to the sheriff for enforcement.*

- [78] The second page of the Tenancy Agreement contains a term regarding the Landlord automatically keeping the security deposit, which states in part:

"Upon signing this lease, the Tenant agrees to pay unto the Landlord a Security Deposit in the amount of \$2,390.00. The Security Deposit will be held by the Landlord and will be refunded to the tenant upon vacating the premises at the end of the Lease. If for any reason, the Tenant defaults on the Covenants outlined to in this Agreement, the Security Deposit shall not be refunded to the Tenant."

[79] I note that this type of clause is prohibited under subsection 15(c) of the Act, which states:

A landlord shall not

...

(c) require, or include as a term of a tenancy agreement, that the landlord automatically keeps all or part of the security deposit at the end of the tenancy agreement.

[80] The Landlord must ensure that all of their tenancy agreements contain all mandatory information and are compliant with the Act.

CONCLUSION

[81] The Tenant Application and the Landlord Application are allowed in part. The parties' established claims partially offset.

[82] The Landlord must pay the Tenant the net amount of \$4,513.32 by the timeline below, calculated as follows:

Item	Amount
Tenant established claims	\$4,829.75
Rent owing	-\$91.43
Damage repairs	-\$225.00
Net amount:	\$4,513.32

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant the net amount of \$4,513.32 by September 17, 2026.

DATED at Charlottetown, Prince Edward Island, this 17th day of August, 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.