

## INTRODUCTION

- [1] This decision addresses the Tenant's application filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act*, cap. R-13.11 (the "Act").
- [2] The Tenant claims against the Landlord for the return of their security deposit balance, including interest and double the security deposit balance.
- [3] The outstanding security deposit balance, including interest is \$737.88.

## BACKGROUND

- [4] On November 29, 2025 the parties signed a written, one-year fixed-term tenancy agreement. Rent in the amount of \$1,400.00 was due on the first day of the month.
- [5] On November 30, 2025 the Tenant paid the Landlord \$2,100.00 by e-Transfer. \$1,400.00 was for the security deposit and \$700.00 was for half-of December 2025's rent.
- [6] On December 15, 2025 the Tenant moved into the Unit.
- [7] On January 1, 2026 the Tenant vacated the Unit, returned the keys and the tenancy ended by mutual agreement.
- [8] On January 7, 2026 the Landlord returned to the Tenant \$700.00 and kept the remaining security deposit balance.
- [9] On May 4, 2026 the Tenant e-mailed the Landlord and the Rental Office a *Form 2(A) Tenant Application to Determine Dispute* requesting the return of the security deposit balance, including interest and double the security deposit balance (the "Application").
- [10] On July 10, 2026 the Rental Office issued to the parties notice of a tele-hearing scheduled for August 18, 2026.
- [11] On August 12, 2026 the Rental Office issued to the parties a 59-page PDF evidence package ("EP").
- [12] On August 18, 2026 the Tenant, the Tenant's interpreter, the Landlord's representative (the "Representative") and the Landlord's interpreter participated in the hearing. The parties confirmed that they received the evidence package and confirmed that all evidence submitted to the Rental Office was included.

## DISPOSITION

- [13] The Landlord must pay the Tenant \$1,437.88 by the timeline below.

## ISSUE

- A. Must the Landlord compensate the Tenant double the security deposit?

## ANALYSIS & FINDINGS

- [14] 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 burden of proof lies with the Tenant, as the party advancing the claims. The applicable standard is proof on a balance of probabilities.

- [15] Section 40 of the Act provides the rules for keeping and returning a security deposit in Prince Edward Island, 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.*
- [16] In Order LR25-33 the Island Regulatory and Appeals Commission commented on a landlord's section 40 obligations 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."*<sup>1</sup>
- [17] The evidence presented by the parties establishes that the tenancy agreement ended on January 1, 2026 by mutual agreement. Although the tenancy agreement was for a one-year fixed-term, the evidence establishes that the Tenant was unhappy with the living conditions of the Unit and requested to end the tenancy early.
- [18] The parties' correspondence establishes that they agreed to end the tenancy effective January 1, 2026, which stated:
- Tenant - December 28, 2025 at 1:50 p.m.*  
*"Given the current situation in which we have already spoken, I request the termination of the lease and I leave on January 1<sup>st</sup>."*
- Landlord – December 28, 2025 at 1:54 p.m.*  
*"Hello, I agree with your request and will refund the \$700 deposit. Please clean up before leaving and hand over the keys to the property manager." (EP11).*
- [19] This means that the Landlord had fifteen days (January 16, 2026) to either return the full security deposit balance, including interest, or file an application with the Rental Office. The evidence establishes that the Landlord only returned half of the security deposit.

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<sup>1</sup> Jiayi "Diana" Dai v. Logan Moonesawmy 2025 PEIRAC 34, para. 35.

- [20] The Representative stated that he believed the parties orally agreed that the Landlord could keep \$700.00 from the security deposit to pay the lost rental income, while searching for a new tenant.
- [21] The Tenant disputed ever having an agreement with the Representative regarding the security deposit. The Tenant stated that English is not the Tenant's nor the Representative's first language so it would not be possible to communicate orally. The Tenant stated that this is why all communication was in writing.
- [22] I find that the Representative did not have convincing or direct evidence to establish his claim that there was an oral agreement between the parties. Further, I find that section 40 of the *Act* requires any such agreement between the parties to be in writing. To this point, I find that the evidence establishes that there was no written agreement between the parties. In text-message correspondence between the parties on or around December 27, 2025, the parties stated:

*Landlord*

*"According to the requirements of the rental housing authority and the contract, we were not supposed to return the deposit to you. Because we advertised to find the next tenant for at least one month or two months, we would have two months without rental income. Therefore, we plan to return half of your deposit and \$700. You are supposed to move out by end of December."*

*...*

*Tenant*

*"No sir you refund me in full because you didn't tell me the truth about my questions, for the calm and the dogs." (EP38).*

- [23] I find that the evidence establishes that the Tenant explicitly rejected the Landlord's offer and requested the full security deposit balance be returned.
- [24] There is no previous Rental Office Order permitting the Landlord to keep the security deposit and no written agreement between the parties allowing the Landlord to keep any amount of the security deposit. The Landlord did not file an application with the Rental Office within 15 days from the end of the tenancy, nor at all.
- [25] The Representative stated that he believed the Rental Office would not refund the security deposit, and in this particular case, the Landlord was justified in keeping half of the Tenant's security deposit.
- [26] I find that the evidence establishes that the Representative may have misunderstood the Rental Office's instructions. The Tenant's evidence included the Rental Office's e-mail, which the Representative forwarded during a text-message conversation with the Tenant.
- [27] I find that the Rental Office's e-mail was straightforward in its instructions to the Representative stating:

*December 29, 2025*

*"Good morning,*

*You can either come to an agreement in writing with the tenant to retain the security deposit, or you would have 15 days from the end of the tenancy to apply with the rental office to retain the deposit. You would do so using a Form 2(B) Landlord Application to Determine Dispute ([hyperlink](#)) with option (E) selected.*

*Have you agreed to allow the tenant out of the agreement?*

*Regard,*

*Residential Tenancy Office." (EP 45).*

- [28] In the text-message correspondence, the Tenant asked the Representative "what does it mean?" The Representative responded with: "The rental management bureau will not refund it."

- [29] I find that the Representative appeared to have misunderstood the Rental Office's e-mail instructions because the Representative's response to the Tenant's question was not what the Rental Office's e-mail said.
- [30] Despite the Representative's misunderstanding, I find that the Landlord did not comply with section 40 of the *Act*. Therefore, by operation of law, the Landlord must pay the Tenant double the security deposit under subsection 40(4).
- [31] The Application is allowed.
- [32] The Landlord must pay the Tenant \$1,437.88 by the timeline below, calculated as follows:

| Item                                                   | Amount     |
|--------------------------------------------------------|------------|
| Security deposit                                       | \$1,400.00 |
| Interest (30 NOV 2025 to 07 JAN 2026)                  | \$26.17    |
| Minus security deposit balance returned                | -\$700.00  |
| Interest on remaining balance (08 JAN 26 to 18 AUG 26) | \$11.71    |
| Double the security deposit balance                    | \$700.00   |
| Total                                                  | \$1,437.88 |

### IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$1,437.88 by September 18, 2026.

**DATED** at Charlottetown, Prince Edward Island, this 18th day of August, 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.