

INTRODUCTION

- [1] This decision addresses an application filed with the Residential Tenancy Office (the “Rental Office”) under the *Residential Tenancy Act* (the “Act”).
- [2] The Landlords seek \$25,000.00 for rent owing, compensation, and to keep the security deposit as part of the claim.

BACKGROUND

- [3] The Unit is a single-family house owned by the Landlords.
- [4] The parties entered into a written fixed-term tenancy agreement for the Unit effective from December 1, 2024 to December 31, 2025. The tenancy then continued monthly. Rent of \$1,875.00 was due on the first day of the month. The Tenants paid a \$1,875.00 security deposit at the beginning of the tenancy.
- [5] On October 31, 2025, the Landlords’ representative (the “Representative”) served the Tenants with a first *Form 4(A) Eviction Notice* (the “First Notice”) with no vacate date noted, for failing to pay rent of \$5,625.00 for September, October, and November 2025. The First Notice was served in person.
- [6] On December 2, 2025, the Representative served the Tenants with a second *Form 4(A) Eviction Notice* (the “Second Notice”) with a vacate date of December 22, 2025, for failing to pay rent of \$1,875.00 and repeatedly late rent payments. The Second Notice was served by posting a copy on the Unit’s door. The Tenants paid the outstanding rent on December 12, 2025, which invalidated the rent-owing portion of the Second Notice.
- [7] Regarding the repeatedly late rent payments, the earliest vacate date is January 31, 2026, because of the minimum notice period required by subsection 61(3) of the Act. For this reason, the Second Notice’s vacate date is automatically corrected to January 31, 2026, under section 54, for this ground for eviction.
- [8] On February 3, 2026, the Tenants moved out of the Unit.
- [9] On February 19, 2026, the Landlords emailed the Rental Office a first *Form 2(B) Landlord Application to Determine Dispute* seeking rent owing, additional compensation, and to keep the security deposit. A copy was served electronically.
- [10] On May 4, 2026, the Landlords filed an amended *Form 2(B) Landlord Application to Determine Dispute* (the “Application”) with the Rental Office seeking rent owing, additional compensation, to dispose of the Tenants’ personal property, and to keep the security deposit. A copy was served electronically.
- [11] On June 22, 2026, the Rental Office emailed the parties notice of a tele-hearing scheduled for July 30, 2026.
- [12] On July 9, 2026, the Rental Office emailed the parties a 450-page PDF evidence package (the “Evidence Package”).
- [13] On July 30, 2026, the Representative and the Tenants participated in the tele-hearing. The parties confirmed receipt of the Evidence Package and that it contained all submitted evidence. The Representative stated she was no longer seeking to dispose of the Tenants’ personal property.
- [14] After the hearing, both parties submitted additional evidence, which was shared with the other party and added to the record.

DISPOSITION

- [15] The Tenants must pay the Landlords \$6,646.45 in rent.
- [16] The Tenants must compensate the Landlords \$3,546.21 for cleaning and damages.
- [17] The Landlords must compensate the Tenants double the security deposit, plus interest, totalling \$3,834.92.
- [18] The amounts are set off, and the Tenants must pay the Landlords \$6,357.74 by the timeline below.

ISSUES

- A. Do the Tenants owe the Landlords rent?
- B. Must the Tenants compensate the Landlords for cleaning and damages?
- C. Must the Landlords compensate the Tenants double the security deposit?

EVIDENCE

Landlords' evidence and submissions

- [19] The Representative stated that the Tenants owe the Landlords \$10,215.00 in outstanding rent up to February 2026. The Representative submitted a rent ledger of the Tenants' payments.
- [20] The Representative stated the Tenants also owe \$1,875.00 in rent for March 2026 because the Tenants did not provide proper notice to end the tenancy agreement. The Tenants gave notice on February 2, 2026, and vacated on February 3, 2026. The Representative stated that after the Tenants vacated, the Unit was not advertised to re-rent, and the Landlords are trying to sell the Unit.
- [21] The Representative stated that the day after the Tenants vacated, the Representative found the Unit unclean and full of garbage, and the Tenants did not remove the fence they had erected. The Landlords paid \$2,490.00 to hire a company to remove the fence and garbage. It cost the Landlords \$637.50 to clean the Unit after the Tenants moved out. During the tenancy, the Tenants cut the lock box off the garage door, and the Landlords replaced it for \$72.44.
- [22] The Representative stated that the Unit and some furniture were damaged, and items were missing. The Landlords did not replace any of the damaged or missing items or repair the Unit. The Landlords are seeking compensation for the replacement and repair costs. The Landlords submitted a repair estimate and estimates to replace the damaged and missing items.
- [23] The Representative stated the parties did not complete a move-in inspection of the Unit, but she submitted listing photographs she took of the Unit before the Tenants moved in. The Representative stated that no one lived in the Unit between the time the Landlords moved out and the Tenants moved in. The Representative stated that the day after the Tenants moved out, she completed a move-out inspection without the Tenants and submitted move-out photographs.
- [24] After the hearing, the Representative submitted an email from the Landlords. The Landlords stated they purchased the Unit in December 2020 and moved out in May 2023. All the appliances, the bed, the television, and desks were new when they moved in. The Landlords estimated the other furniture was approximately ten years old. They stated that there was no surfboard when they moved in, despite a surfboard being depicted in the pre-tenancy photos, and that there was a telescope on the back porch, but the Landlords do not wish to claim for it.

[25] The Landlords' claims are as follows:

Cleaning and damages	Claim	Missing items	Claim
Garbage removal	\$2,490.00	Television	\$207.90
Cleaning	\$637.50	Plant	\$18.99
Wall repair and painting	\$6,670.00	Plant	\$69.99
Leather chair	\$389.99	Blender, toaster, coffee maker	\$80.43
Leather love seat	\$1,049.99	Silverware	\$41.96
Lock box	\$72.44	Dishes	\$160.59
Sectional couch	\$1,598.44	Single bed	\$218.49
Single bed mattress	\$206.98	Total	\$798.35
Double bed mattress	\$217.34		
King bed and mattress	\$1,838.85		
Total	\$15,171.53		

Tenants' evidence and submissions

- [26] The Tenants stated they experienced financial hardship and could not pay all the rent owed. The Tenants disputed owing the amount stated by the Representative. They stated they only owe \$4,600.00 and submitted records of their rent payments.
- [27] The Tenants disputed that they should owe rent for March 2026. They stated they received eviction notices in October 2025 and December 2025 and moved out because they could not continue paying rent.
- [28] The Tenants stated that the Representative's listing photos do not accurately depict the Unit as it was when they moved in. They stated there was no surfboard, telescope, fake plants, blender, toaster, or coffee maker in the Unit. They stated there was mouldy food in the fridge, so the Landlords must have been living in the Unit before their move-in, contrary to what the Representative stated.
- [29] The Tenants agreed with some of the Landlords' damage claims. They agreed they damaged the lock box. They stated the leather chair, leather love seat, and sectional couch had some mould on them, but the Tenants may have caused some of the other damage. They stated that they may have stained the single bed and double bed mattresses.
- [30] The Tenants disputed the cleaning and garbage removal claims. They stated they offered to return when the snow melted to remove the fence and other garbage, but the Representative told them not to return to the property due to the allegation of missing items.
- [31] The Tenants stated the estimate for the wall repair and painting is high. They stated they did put some holes in the walls, such as for a television mount, but stated it would be reasonable wear and tear.
- [32] The Tenants stated the Representative told them to store any unused items in the garage, so they put the silverware, dishes, and single bed in the garage. The single bed's headboard was on the deck and is in the Representative's post-tenancy photos. They stated they moved the Landlords' television to the den, mounted it on the wall, and disputed taking it. They stated the king bed mattress was already stained, there are no photos of the alleged damage, and the king bed adjustable frame was working when they moved out.
- [33] The Tenants stated they asked the Representative several times after they moved out what items she alleged were missing from the Unit. The Tenants stated they did not get a list of the alleged missing items until the Landlords served the Application.

ANALYSIS & FINDINGS

A. Do the Tenants owe the Landlords rent?

- [34] I have reviewed the parties' evidence regarding the amounts the Tenants paid for rent. I find that both parties submitted similar evidence showing the amount of rent paid from December 2024 to January 2026. However, both parties miscalculated the amount of rent owing. The evidence establishes that the Tenants paid the Landlords \$19,785.00 in rent. For these 14 months, the total rent that should have been paid was \$26,250.00. Therefore, I find that the Tenants owe the Landlords \$6,465.00 in rent up to January 31, 2026.
- [35] Regarding the rent for February 2026, the evidence establishes that the Tenants provided the Landlords notice on February 2, 2026, and vacated on February 3, 2026. The Landlords are seeking rent owing for February and March 2026 because they stated the Tenants provided insufficient notice to end the tenancy agreement.
- [36] The Landlords served the Tenants with two separate eviction notices. I find that the First Notice is not valid because the Landlords did not state a vacate date on the First Notice, as required by the Act.
- [37] Regarding the Second Notice, the Tenants did not dispute it regarding the allegation of repeatedly late rent payments, and the Tenants' payment did not invalidate this ground for eviction. I find that the Tenants are deemed to have accepted the Second Notice under clause 61(6) of the Act, which states:

Where a tenant who has received a notice of termination under this section does not make an application to the Director in accordance with subsection (5), the tenant

- (a) is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and*
(b) shall vacate the rental unit by that date.

- [38] The evidence does not establish that the Second Notice was waived, the tenancy was reinstated, or a new tenancy was created under section 74 of the Act. Therefore, I find that the tenancy between the parties was terminated effective January 31, 2026, and that the Tenants were overholding between February 1 and February 3, 2026.
- [39] I find that the Tenants owe the Landlords \$181.45 in rent (\$1,875.00 / 31 days x 3 days) for February 1 to February 3, 2026.
- [40] In the alternative, if I found that the Tenants abandoned the Unit on February 3, 2026, section 46 of the Act requires landlords to take reasonable steps to mitigate their losses arising from the abandonment.
- [41] The Representative stated that the Landlords did not try to re-rent the Unit after the Tenants moved out and instead listed the Unit for sale. As such, I find that the Landlords failed to sufficiently mitigate their damages under section 46 of the Act, and no rent would be owing beyond February 3, 2026.
- [42] Regarding the Landlords' claim for rent owing for March 2026, I find that the Landlords have not established this claim because the tenancy between the parties ended on January 31, 2026, and the Tenants vacated the Unit on February 3, 2026.
- [43] I find that the Landlords have established that the Tenants owe \$6,646.45 in rent (\$6,465.00 + \$181.45). This claim is allowed in part.

B. Must the Tenants compensate the Landlords?

[44] The Landlords claim \$15,969.88 for cleaning, garbage removal, damages, and missing items.

[45] Clause 39(2)(a) states:

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

[46] The burden of proof lies with the Landlords as the party advancing their claims. The applicable standard is proof on a balance of probabilities. To be successful, the Landlords must establish that the Tenants caused the alleged damage beyond ordinary wear and tear; the damage occurred during the Tenants' occupancy; the damage was attributable to the Tenants rather than another cause; and the compensation claimed reasonably flows from that damage.

Cleaning

[47] Despite the Tenants offering to return to the property when the snow melted to clean and remove the fence, the Act requires the rental unit to be left reasonably clean and undamaged when a tenant vacates. No evidence was presented as to whether the Tenants were permitted to erect the fence, or what the parties agreed regarding the fence at the end of the tenancy.

[48] Based on the Landlords' documentary and photographic evidence, I find that the Tenants left the interior and exterior of the Unit below the standard of reasonable cleanliness when they moved out. I find that the Landlords have established the fence and garbage removal claim of \$2,490.00 and the cleaning claim of \$637.50, totalling \$3,127.50. These claims are allowed.

Damages and missing items

[49] All tenancy agreements commencing on or after April 8, 2023, require a pre-tenancy and post-tenancy inspection report under clauses 18(3) and 38(3) of the Act.

[50] In Order LR25-12, the Island Regulatory and Appeals Commission (the "Commission") made the following comments regarding landlords who fail to complete the inspection reports (paragraphs 34 & 35):

"The Commission finds that the Landlord failed to comply with section 18 and section 38 statutory requirement for pre-tenancy and post-tenancy inspections. These requirements are in place to protect both landlords and tenants and to provide the Rental Office and the Commission with the best possible evidence of the condition of a rental unit at the start and at the end of the tenancy. A deterioration in the condition of the unit during the tenancy will then be more clearly apparent.

Where a landlord has failed to comply with both sections 18 and 38, the Commission can only award a damage claim to a landlord if that claim is supported by objective and compelling evidence with respect to who caused the damage and how much it costs to repair. The onus to establish such damage and who caused it rests on the party seeking the damage claim and a failure to comply with sections 18 and 38 "raises the bar" thus making it more difficult, but not impossible, to support the claim."

[51] In this case, the parties did not complete a pre-tenancy or post-tenancy inspection report. There is no evidence that the Landlords offered the Tenants at least two reasonable opportunities for a pre-tenancy or post-tenancy inspection, as required by the Act.

- [52] The Representative submitted photographs of the Unit that she stated were taken before the Tenants moved in. However, the photographs were undated, and the Representative did not establish when they were actually taken.
- [53] Additionally, during the hearing, the Representative stated the surfboard depicted in her photographs was in the Unit when the Tenants moved in but was missing when the Tenants moved out. However, after the hearing, the Landlords submitted an email stating that the surfboard was not in the Unit when they purchased the Unit in December 2020.
- [54] Based on the Representative's and Landlords' conflicting evidence regarding the surfboard, and the insufficient evidence to establish when the pre-tenancy photographs were taken, I cannot conclude that the Representative's pre-tenancy photographs accurately depict the condition of the Unit at the time the Tenants moved in.
- [55] Therefore, I find that, without a pre-tenancy inspection report and reliable evidence of the Unit's pre-tenancy condition, the Landlords have provided limited direct or objective evidence to establish the Unit's pre-tenancy condition.
- [56] During the hearing, the Tenants stated that they did cause some of the damages claimed by the Landlords.
- [57] The Tenants stated they damaged the lock box, and I find that the Landlords have established the \$72.44 claim to replace the lock box.
- [58] The Tenants stated they may have caused some of the damage to the leather chair, leather love seat, sectional couch, single bed mattress, and double bed mattress.
- [59] The Commission, in Order LR24-06, applied the principle of betterment in determining the amount to be awarded to a landlord for damage caused by a tenant, taking depreciation into account. The Commission noted that a party should not be put in a better position than they would have been had the damage not occurred.
- [60] The Landlords' email stated that they bought "the bed" new when they moved in. However, the Landlords did not specify which of the three mattresses being claimed was "the bed" noted in their email. The Landlords stated the other claimed furniture items were approximately ten years old.
- [61] In the absence of sufficient evidence to establish which "bed" was the new purchase, I will apply the principle of betterment to the leather chair, leather love seat, sectional couch, single bed mattress, and double bed mattress, considering the Landlords' evidence that the items were approximately 10 years old.
- [62] I find that, regarding the age of the items, and given the absence of reliable evidence establishing their pre-tenancy condition, it is reasonable to award the Landlords 10% of the claimed replacement costs. This is based on the evidence that the claimed items were approximately 10 years old and my assessment of their remaining value. These claims are allowed in part as follows:

Item	Amount
Leather chair	\$39.00
Leather love seat	\$105.00
Sectional couch	\$159.84
Single bed mattress	\$20.70
Double bed mattress	\$21.73
Total	\$346.27

- [63] Regarding the Landlords' claim for wall repair and painting, I find that there is insufficient evidence of the Unit's pre-tenancy condition, no evidence of when the Unit was last painted, and no evidence that these repairs have been completed. Additionally, many of the post-tenancy photographs depict what I consider reasonable wear and tear in the Unit. This claim is denied.
- [64] The Tenants stated there were no fake plants, blender, toaster, or coffee maker in the Unit when they moved in. I find that there is insufficient evidence of the Unit's pre-tenancy condition and that the Landlords have not established their claims for these alleged missing items. These claims are denied.
- [65] The Tenants stated they put the silverware, dishes, and single bed in the garage. I note that the Representative's post-tenancy photographs of the garage depict boxes and other large items. However, there is insufficient evidence that the Representative checked the boxes or moved the large items to see whether she could locate the alleged missing items. Additionally, a post-tenancy photograph shows the single bed's headboard on the porch, which I find is evidence that at least part of the single bed is not missing. These claims are denied.
- [66] The Tenants stated the king bed mattress was already stained and the electric adjustable bed frame was working when they moved out. I find that there is insufficient evidence of the pre-tenancy condition of the king mattress or the electric bed frame. Additionally, there is insufficient evidence that the electric bed frame stopped working as a result of the Tenants' actions rather than another cause, such as reasonable wear and tear or a mechanical issue. There is also no evidence that the Landlords investigated whether the bed frame could be repaired at a lower cost. This claim is denied.
- [67] The Tenants stated they moved the television to the den area and disputed taking it. During the hearing, the Representative did not refer to any post-tenancy photographs to help establish that the television was not where the Tenants stated it was.
- [68] Additionally, the Representative stated that the television had not been replaced, and she estimated its replacement value. In Order LR25-50, the Commission commented on parties claiming for items based on estimations and not actual replacement costs:
- "... The Commission finds that any such claim must be rooted on the basis of the money actually paid to replace the food and furniture thrown out. Here the Tenants attempted to estimate the value without having actually purchased the replacements."*
- [69] The Landlords have the burden of proof on the balance of probabilities. Regarding the television, I find that the Landlords have provided insufficient evidence, such as a receipt or invoice, to establish the television's value and their actual loss. There is insufficient evidence that the television was replaced and that an expense was actually incurred. Additionally, I am not satisfied that the Landlords have established, on a balance of probabilities, that the television was not in the Unit where the Tenants stated it was. This claim is denied.
- [70] I note that if the Landlords had completed pre-tenancy and post-tenancy inspections with the Tenants, as required by the Act, some of these matters may have been resolved between the parties before the tele-hearing.

C. Must the Landlords compensate the Tenants double the security deposit?

[71] 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.*

[72] The evidence presented establishes that the tenancy ended on January 31, 2026. This means the Landlords had until February 17, 2026 (because February 15, 2026, was a Sunday and February 16, 2026, was a holiday, and the Rental Office was not open for business) to either return the security deposit, plus interest, or file an application with the Rental Office. The evidence establishes that the Landlords did not file the first *Form 2(B)* until February 19, 2026.

[73] In the alternative, if I were to find that the tenancy ended on February 3, 2026, when the Tenants moved out of the Unit, the Landlords would have been required to file an application by February 18, 2026.

[74] 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."

[75] No previous Rental Office Order permits the Landlords to keep the security deposit, and no written agreement between the parties allows the Landlords to keep it. I find that the Landlords did not comply with section 40 of the Act.

[76] Therefore, by operation of law, the Landlords must pay the Tenants double the security deposit, including interest on the principal amount, under subsection 40(4), which will be set off against the Landlords' claims.

CONCLUSION

- [77] The Tenants must pay the Landlords \$6,646.45 in rent.
- [78] The Tenants must compensate the Landlords \$3,546.21 for cleaning and damages.
- [79] The Landlords must compensate the Tenants double the security deposit, plus interest, totalling \$3,834.92.
- [80] The amounts are set off, and the Tenants must pay the Landlords \$6,357.74 by the timeline below.
- [81] My calculations are as follows:

Item	Amount
Rent	\$6,646.45
Garbage removal	\$2,490.00
Cleaning	\$637.50
Lock box	\$72.44
Leather chair	\$39.00
Leather love seat	\$105.00
Sectional couch	\$159.84
Single bed mattress	\$20.70
Double bed mattress	\$21.73
Security deposit	(\$1,875.00)
Double security deposit	(\$1,875.00)
Interest (Dec. 1/24 - Sept. 1/26)	(\$84.92)
Total payable	\$6,357.74

IT IS THEREFORE ORDERED THAT

1. The Tenants must pay the Landlords \$6,646.45 in rent.
2. The Tenants must compensate the Landlords \$3,546.21 for cleaning and damages.
3. The Landlords must compensate the Tenants double the security deposit, plus interest, totalling \$3,834.92.
4. The amounts are set off, and the Tenants must pay the Landlords \$6,357.74 by October 30, 2026.

DATED at Charlottetown, Prince Edward Island, this 1st day of September, 2026.

(sgd.) Mitch King

Mitch King
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.