

INTRODUCTION

- [1] This decision addresses an application filed by the Tenants with the Residential Tenancy Office (the “Rental Office”) under the *Residential Tenancy Act* (the “Act”).
- [2] The Tenants claim against the Landlord for the return of their security deposit, plus interest and compensation of double the security deposit.

BACKGROUND

- [3] The Unit is an apartment in a four-unit building (the “Residential Property”) owned by the Landlord.
- [4] On November 16, 2025, the Tenants paid a \$1,300.00 security deposit. On November 27, 2025, the parties entered into a written, fixed-term tenancy agreement for the Unit effective December 1, 2025, to November 30, 2026. Rent of \$1,300.00 was due on the first day of the month.
- [5] On December 17, 2025, the Tenants filed and served a *Form 2(A) Tenant Application to Determine Dispute* seeking to terminate the tenancy agreement, a return of rent, a return of the security deposit, and a determination that the Landlord failed to maintain the Unit.
- [6] Around December 30, 2025, the Tenants moved out of the Unit. The end of the tenancy is in dispute.
- [7] On April 14, 2026, the Tenants filed an amended *Form 2(A) Tenant Application to Determine Dispute* (the “Application”), seeking a return of the security deposit and compensation of double the security deposit. On April 17, 2026, the Application was served electronically.
- [8] On June 19, 2026, the Rental Office e-mailed the parties notice of a tele-hearing scheduled for July 16, 2026.
- [9] On July 9, 2026, at the Landlord’s request, the Rental Office e-mailed the parties notice of a rescheduled tele-hearing for August 18, 2026.
- [10] On August 12, 2026, the Rental Office emailed the parties a 45-page PDF evidence package.
- [11] On August 18, 2026, before the tele-hearing, the Landlord emailed the Rental Office and the Tenants additional evidence, which was added to the record.
- [12] On August 18, 2026, a Tenant, representing both Tenants, and the Landlord participated in the tele-hearing. The parties confirmed that all documentary evidence submitted was included in the evidence package, and the Tenant confirmed receiving the Landlord’s additional evidence.

DISPOSITION

- [13] The Landlord must return the security deposit, plus interest, and compensate the Tenants double the security deposit, totalling \$2,628.19.

ISSUES

- A. When did the tenancy end?
- B. Must the Landlord return the security deposit and compensate the Tenants double the security deposit?

EVIDENCE**Tenants' evidence and submissions**

- [14] The Tenant stated that he is seeking a return of the security deposit and compensation of double the security deposit.
- [15] The Tenant stated that he and his girlfriend moved into the Unit on December 1, 2025. The Tenant stated he experienced health issues due to the presence of mould in the Unit. The Tenants contacted Environmental Health ("EH"), who determined that repairs were required to the Unit and sent a letter to the Landlord.
- [16] The Tenants moved out of the Unit around December 30, 2025, due to the Tenant's health issues. The Tenant stated that he paid rent for December 2025 and January 2026 to give the Landlord time to find a new tenant. He stated that on January 12, 2026, he was notified that all the EH requirements had been completed but the Tenants had already entered into another tenancy agreement. The Tenant argued that the tenancy ended on January 31, 2026.
- [17] The Tenant denied that he agreed to allow the Landlord to keep the security deposit for rent owing for February 2026. The Tenant stated that his messages to the Landlord, including that he no longer wanted to "*continue arguing back and forth*" with the Landlord, show there was no agreement.

Landlord's evidence and submissions

- [18] The Landlord stated that the Tenants provided insufficient notice to end the fixed-term tenancy agreement. The Tenants paid rent for December 2025 and January 2026, and the Landlord secured a new Tenant for March 2026. The Landlord stated the Tenants agreed that he could keep the security deposit for rent owing for February 2026.
- [19] The Landlord stated that on January 23, 2026, the Tenant sent the Landlord a message stating:
- " As I have stated before, I will not be paying rent for February. I have already paid the security deposit (equal to one month rent) and the rent for December and January."*
- [20] The Landlord stated he interpreted the Tenant's message to mean that the Landlord could keep the security deposit and that the Tenants would not be required to pay rent for February. The Landlord stated that when a replacement tenant was found for March, the parties orally agreed to call things even. The Landlord does not have a written record of this agreement. The Landlord stated the Tenant later changed his mind and now wants the security deposit back.
- [21] The Landlord stated that all of the EH requirements were completed by January 12, 2026. He stated that the Tenants could have moved back into the Unit at that time, but they chose not to.

ANALYSIS AND FINDINGS

A. When did the tenancy end?

[22] I find that the evidence establishes that the Tenants provided insufficient notice to end the fixed-term tenancy agreement under subsection 55(3) of the Act. Under subsection 55(3) of the Act, a tenant's notice to terminate a fixed-term tenancy cannot be effective earlier than the date specified in the tenancy agreement as the end of the tenancy. In this case, the tenancy was to end on November 30, 2026. I find that the Tenant's notice to end the tenancy before November 30, 2026, was ineffective.

[23] The evidence establishes that the Landlord mitigated his losses and secured a new tenant for March 1, 2026. Therefore, I find that the tenancy between the parties ended on February 28, 2026.

B. Must the Landlord return the security deposit and compensate the Tenants double the security deposit?

[24] 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.*

[25] In Order LR25-33, the Island Regulatory and Appeals Commission (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."

[26] I find that the parties provided conflicting evidence as to whether the Tenants agreed to allow the Landlord to keep the security deposit for February 2026's rent.

- [27] I have reviewed the messages between the parties. The evidence establishes that on January 23, 2026, the Tenant messaged the Landlord stating in part:

"I am not going to continue arguing back and forth, as it no longer seems productive.

As I have stated before, I will not be paying rent for February. I have already paid the security deposit (equal to one month's rent) and the rent for December and January. I have paid rent up to the end of January, and I acknowledge that the lease was in place during that period linking my illness to the condition of the apartment...

At this point, I do not see any benefit in continuing this discussion directly. If you believe my decision is unjust or unfair to you, you are free to bring the matter to IRAC for resolution. I am fully willing to discuss this matter with IRAC or any appropriate legal authority, where the facts and evidence can be reviewed objectively.

I will not be engaging in further arguments outside of that process."

- [28] Based on the Tenant's messages to the Landlord, I am not satisfied that the Tenant agreed in writing that the Landlord may keep the security deposit under clause 40(3)(a) of the Act.
- [29] All of the Tenant's other communications with the Landlord indicate that the Tenants considered the end of the tenancy to be the end of January 2026. I find no evidence that the Tenants agreed to pay rent for February, or agreed to allow the Landlord to keep the security deposit for February's rent. Additionally, the Tenants' filings with the Rental Office indicate they sought the return of the security deposit as early as December 2025.
- [30] As there was no written agreement that the Landlord could keep the security deposit, the Landlord then had fifteen days, until March 16, 2026 (because March 15, 2026, was a Sunday and the Rental Office was closed for business), to either return the security deposit, plus interest, or file an application with the Rental Office. The evidence establishes that the Landlord did neither.
- [31] No previous Rental Office Order permits the Landlord to keep the security deposit, and I have found that no written agreement between the parties allows the Landlord to keep it. I find that the Landlord did not comply with section 40 of the Act. Therefore, by operation of law, the Landlord must return the security deposit, including interest, and compensate the Tenants double the security deposit under subsection 40(4).
- [32] The Application is allowed.
- [33] The Landlord must pay the Tenants \$2,628.19, calculated as follows:

Item	Amount
Security deposit	\$1,300.00
Interest (Nov. 16/25 – Sept. 3/26)	\$28.19
Double security deposit	\$1,300.00
Total	\$2,628.19

- [34] Despite the Landlord's argument that the Tenants owe rent for February 2026 due to providing insufficient notice, I find that the Landlord did not file an application seeking rent owing. The Commission noted in Order LR26-06 that:

"First, parties in administrative proceedings are entitled to notice of the matters in issue and the proposed decision to be made so that the parties can be prepared to present relevant information and submissions. Fairness requires that the parties have notice of the matters that will be heard and decided."

- [35] Therefore, because the Landlord did not file an application seeking rent owing, I will not determine whether any amount allegedly owing for February 2026 could be set off against the amount payable to the Tenants. Additionally, the six-month period for filing an application under section 75 has now expired.

Tenancy agreement

- [36] I note that the tenancy agreement is not on the proper form. Subsections 11(1) and (2) of the Act require the tenancy agreement to be in writing and to have the formal requirements listed in subsection 11(2) of the Act. This information must be included in every written tenancy agreement. The Rental Office's *Form 1 – Standard Form of Tenancy Agreement* can be found on the Rental Office's website.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants the amount of \$2,628.19 by September 29, 2026.

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