

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 the portion of the security deposit that the Landlord retained together with interest and double the security deposit amount.

BACKGROUND

- [3] On June 19, 2025 the Tenant, another tenant and the Landlord entered into a written, fixed-term tenancy agreement. The Tenant paid the Landlord a \$500.00 security deposit before moving into the Unit. Rent in the amount of \$950.00 was due on the first day of the month.
- [4] On July 1, 2025 the Tenant moved into the Unit.
- [5] In early August 2025, the Tenant paid the Landlord a \$100.00 pet deposit.
- [6] On February 5, 2026, the parties amended the tenancy agreement and removed the other tenant from the tenancy agreement.
- [7] On February 13, 2026 the Landlord returned to the Tenant the \$100.00 pet deposit.
- [8] On April 30, 2026 the Tenant vacated the Unit and the tenancy ended by mutual agreement.
- [9] On May 16, 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, including interest, interest on the pet deposit and double the security deposit (the "Application"). The Application was considered filed on May 19, 2026.
- [10] On July 22, 2026 the Rental Office e-mailed the parties notice of a tele-hearing scheduled for September 3, 2026.
- [11] On August 3, 2026 the Rental Office e-mailed the parties an updated notice of a tele-hearing scheduled for September 8, 2026.
- [12] On August 11, 2026 the Rental Office issued the parties a 40-page PDF evidence package.
- [13] On September 8, 2026 the Tenant and the Landlord 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.

DISPOSITION

- [14] The Landlord must pay the Tenant \$416.34 by the timeline below for the security deposit balance, including interest and interest on the pet deposit.

ISSUE

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

ANALYSIS

- [15] 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.
- [16] 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.*
- [17] The parties agreed that the Landlord could keep \$100.00 of the Tenant's security deposit.
- [18] The Tenant stated that after vacating the Unit, the Landlord did not return the security deposit balance plus interest.
- [19] The Tenant stated that the Landlord did not take reasonable efforts to return the security deposit balance.
- [20] In response to the Landlord's submissions below, the Tenant admitted to receiving \$100.00 for the pet deposit and denied receiving the pet deposit interest. The Tenant stated that they have received mail at their new location without any issues.
- [21] The Landlord stated that on May 8, 2026 she mailed a cheque in the amount of \$410.82 and a *Form 8 Notice of Intention to Retain Security Deposit* to the Tenant.
- [22] The Landlord stated that she left Canada and was away from May 14, 2026 to June 15, 2026.
- [23] The Landlord submitted into evidence a copy of the *Form 8* dated May 8, 2026 and a photograph of an envelope with the Tenant's name and new address, with a return to sender sticker, with a hand written note that stated "box closed."
- [24] The Landlord stated that when she returned from her trip, she found the envelope was returned.
- [25] The Landlord stated that she gave the Tenant \$100.00 cash in the laundry room for the pet deposit. The Landlord stated that she also gave the Tenant a "few loonies" to cover the interest on the pet deposit.

- [26] Subsection 40(5) of the Act provides the permitted methods for a landlord to repay the security deposit, stating:

For the purposes of clause 1(a), the landlord shall repay a deposit

(a) by sending a cheque by ordinary or registered mail to an address provided by the tenant, if any;

(b) by giving the deposit personally to the tenant; or

(c) by using any form of electronic payment or transfer to the tenant.

- [27] Based on the parties undisputed evidence, that the security deposit balance was not returned, I find that the Landlord must return the Tenant's security deposit, including interest.

- [28] However, I find that the evidence presented establishes that the Landlord did comply with subsection 40(1) of the Act. Therefore, subsection 40(4) is not triggered and the Landlord does not have to compensate the Tenant double the security deposit.

- [29] Subsection 40(4) is the penalty provision when a landlord does not comply with subsection 40(1). If I find that a landlord has not complied with subsection 40(1), then subsection 40(4) is automatically triggered. In Order LR25-33 the Island Regulatory and Appeals Commission commented on a landlord's section 40 obligation and the inability to waive the penalty, 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

- [30] Subsection 40(5) provides a landlord with specific methods to repay the security deposit, when returning the security deposit to a tenant under clause 40(1)(a).

- [31] The evidence establishes that the tenancy ended by mutual agreement on April 30, 2026. This means that the Landlord had until May 15, 2026 to either return the security deposit or file an application with the Rental Office.

- [32] The evidence presented establishes that the parties agreed that the Landlord could keep \$100.00 of the Tenant's security deposit for cleaning.

- [33] I accept the Landlord's evidence that the Landlord did not have any intention of keeping the security deposit balance. The Landlord's evidence included a copy of an old *Form 8 Notice of Intention to Retain Security Deposit* dated May 8, 2026, which was included in an envelope with a cheque for the security deposit balance.

- [34] The Landlord sent the security deposit by ordinary mail within the fifteen-day timeline. Subsection 100(4) deems delivery on the third day after mailing.

- [35] I find that the Landlord made reasonable efforts to return the Tenant's security deposit, opting to send it by ordinary mail to the forwarding address provided by the Tenant. I find that this is supported by the text-messages included in the evidence by the Landlord and the Tenant.

- [36] I find that subsection 40(4) only applies when a finding is made that a landlord did not comply with subsection 40(1). However, I find that the evidence establishes that the Landlord did make reasonable efforts to comply with subsection 40(1). I further find that there is insufficient evidence to establish that the Landlord acted in bad faith or was the cause of the mailing error.

¹ Jiayi "Diana" Dai v. Logan Moonesawmy 2025 PEIRAC 34, para. 35.

- [37] Therefore, I find that the Landlord must only return to the Tenant the security deposit balance, including interest.
- [38] I also find that the Landlord must pay the Tenant interest on the \$100.00 pet deposit from early August 2025 to February 13, 2026.
- [39] The parties provided conflicting evidence regarding whether or not the interest was paid. I find that the Landlord has provided insufficient evidence to establish her claim that she paid the Tenant interest. I find that included in the evidence was a hand-written receipt dated February 13, 2026 and signed by the Landlord and the Tenant for \$100.00. The receipt makes no reference to the interest also being returned.
- [40] The Application is allowed in part.
- [41] The Landlord must pay the Tenant \$416.34 by the timeline below.
- [42] My calculations are as follows:

Item	Amount
Security deposit	\$500.00
Interest (30 JUN 25 to 30 APR 2026)	\$10.86
less deduction	-\$100.00
Interest on remaining balance (1 MAY 26 to 14 SEP 26)	\$4.10
Interest on pet deposit (1 AUG 25 to 13 FEB 26)	\$1.38
Total	\$416.34

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$416.34 by October 14, 2026.

DATED at Charlottetown, Prince Edward Island, this 14th day of September, 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.