INTRODUCTION

[1] This decision determines an application the Tenant filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (the "Act").

[2] The Tenant seeks the return of the February 2026 rent payment and $525.00 of the security deposit balance, totalling $1,575.00.

BACKGROUND

[3] The Unit is an apartment in a four-unit building owned by the Landlord.

[4] On August 30, 2022, the Landlord, the Tenant and "T1" entered into a written fixed-term tenancy agreement for the Unit from September 1, 2022, to August 30, 2023. The tenancy then continued on a monthly basis. Rent was $1,050.00 per month, and the Tenant and T1 paid a $1,050.00 security deposit at the start of the tenancy.

[5] During the tenancy, T1 moved out of the Unit, and another individual ("O.A.") moved into the Unit with the Tenant.

[6] On April 7, 2026, the Tenant and the Landlord's representative (the "Representative") participated in a prior Rental Office tele-hearing to determine the Tenant's application disputing an eviction notice the Landlord served.

[7] On April 9, 2026, the Rental Office issued Order LD26-112, which found that the eviction notice was invalid and that the tenancy continued in full force and effect.

[8] On April 30, 2026, the Tenant moved out of the Unit, and the tenancy ended.

[9] On June 11, 2026, the Tenant filed and served an amended *Form 2(A) Tenant Application to Determine Dispute* (the "Application") seeking the return of $525.00 of the security deposit balance and the February 2026 rent payment, totalling $1,575.00. The Tenant included O.A. in the Application but not T1. T1 is not a party to this matter.

[10] On July 28, 2026, the Rental Office emailed the parties notice of a tele-hearing scheduled for September 29, 2026.

[11] On September 10, 2026, the Rental Office emailed the parties a 64-page PDF evidence package.

[12] On September 29, 2026, the Tenant and the Representative participated in a Rental Office tele-hearing. The parties confirmed receipt of the evidence package and stated that it included all the evidence they submitted.

[13] After the hearing, both parties submitted additional evidence, which was shared with the other party and added to the record. No further submissions were received after October 2, 2026.

DISPOSITION

[14] The Landlord must return the February 2026 rent payment of $1,050.00 to the Tenant.

[15] The Landlord must return the $525.00 security deposit balance, including interest, to the Tenant and compensate the Tenant under subsection 40(4) with double the $525.00 security deposit balance.

[16] The Landlord must pay the Tenant $2,149.45 by the timeline below.

ISSUES

A. Must the Landlord return the February 2026 rent payment to the Tenant?

B. Must the Landlord return double the $525.00 of the security deposit balance to the Tenant?

EVIDENCE

The Tenant's evidence and submissions are as follows.

[17] The Tenant stated that T1 damaged the Unit's countertop. T1 wrote a letter dated May 23, 2023, stating that she agreed to use her portion of the security deposit ($525.00) to cover the countertop repair. The Tenant stated that T1 sent this letter to the Landlord and submitted a copy as evidence.

[18] During the Tenancy, T1 moved out, and O.A. moved into the Unit with the Tenant. O.A. did not pay a security deposit. The Tenant stated she is seeking the remaining $525.00 of the security deposit balance.

[19] The Tenant stated on January 21, 2026, the Unit sustained water damage when a water pipe broke in the rental unit above the Unit. The Landlord told the Tenant and O.A. that they could not live in the Unit until it was repaired. ServiceMaster told the Tenant she could put her belongings in the living room and that they would work around the belongings. She was never told that she had to remove all her belongings from the Unit.

[20] In February 2026, the Tenant removed some of her belongings from the Unit and packed the rest in the living room. She stated she could not live in the Unit during February and only went there to pack her personal property. After the Unit was damaged, the Tenant stayed with friends. She originally wanted to move back into the Unit after it was repaired, but she later decided to find another place to live. On April 28, 2026, the Tenant messaged the Landlord stating that she was moving out, and she vacated the Unit on April 30, 2026.

The Landlord's evidence and submissions are as follows.

[21] The Representative stated that on January 21, 2026, the Unit sustained water damage when a water pipe broke in the rental unit above the Unit. After the Unit sustained water damage, the Landlord hired ServiceMaster to repair it. ServiceMaster determined that the Tenant and O.A. could not live in the Unit while it was being repaired.

[22] ServiceMaster asked the Tenant to remove her belongings from the Unit so the restoration work could proceed. An email from ServiceMaster dated February 25, 2026, confirmed the difficulties created by the Tenant's contents remaining in the Unit. ServiceMaster stated that it could not work around the Tenant's belongings and that repeatedly handling or moving her property would increase the risk of damaging her property.

[23] The email details the scope of the work required and states in part:

> *"There is no allowance in the build owners insurance to move out tenants contents for storage or handling them multiple times and it increase the ris [*sic*] for damage as well."*

[24] ServiceMaster agreed to allow the Tenant to leave some of her belongings in the living room because the living room had not sustained water damage. ServiceMaster made this accommodation to facilitate the work, but the Landlord did not approve it and wanted the Unit completely cleared.

[25] The Tenant spent most of February 2026 packing and removing her belongings. This delayed the restoration process and prevented the major work from beginning as quickly as it otherwise could have. The Tenant finished packing and moving her belongings on February 27, 2026. The Representative stated that the Tenant had possession of the Unit until that date and the Landlord should not have to return February's rent. The Landlord is not seeking any rent after February 2026 because the Tenant did not have possession of the Unit during the repairs.

[26] The Representative asked the Tenant to communicate with her instead of the Landlord because the Landlord was ill. The Representative did not learn that the Tenant had told the Landlord she had moved out on April 30, 2026, until May 29, 2026, when the Representative reviewed the Landlord's phone.

[27] The Representative seeks to keep the security deposit because the Unit requires repairs and cleaning. The stove was left in poor condition, and the burner inserts were missing, so the Landlord is replacing it. The Unit also had paint chips and other areas requiring additional attention. The Landlord incurred costs not only for the original restoration work, but also for additional cleaning, repairs, plumbing, pest control, stove replacement, and work required to bring the Unit back to a rentable condition.

[28] The Representative stated she has never communicated directly with O.A. or received any written confirmation of an agreement regarding responsibility for the countertop damage. Any arrangement between the Tenant and O.A. regarding the security deposit is a matter between them.

ANALYSIS & FINDINGS

A. Must the Landlord return the February 2026 rent payment to the Tenant?

[29] Subsection 28(1) of the Act states:

> *A landlord shall provide and maintain the residential property in a state of repair that*
> *(a) complies with the health, safety and housing standard required by law; and*
> *(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.*

[30] The evidence establishes that on January 21, 2026, the Unit experienced water damage from another rental unit, and that the water damage was neither the Tenant's nor the Landlord's fault. The evidence shows that the Tenant could not live in the Unit after January 21, 2026, due to the damage. However, the parties provided conflicting evidence about what ServiceMaster required the Tenant to do with her personal property during February 2026 and whether the Tenant had "possession" of the Unit or delayed the restoration work.

[31] I have reviewed the correspondence between ServiceMaster and the parties. Although the Representative alleges that the Tenant had possession of the Unit and delayed the restoration work, I find that the messages between the parties and ServiceMaster do not establish that the Tenant delayed the restoration work or that ServiceMaster determined the Tenant could not store any of her belongings in the Unit during the restoration work.

[32] I find that the evidence establishes that after January 21, 2026, the Tenant could not live in the Unit in accordance with subsection 28(1) of the Act. Although the Tenant stored some of her belongings in the Unit during February 2026, I find that the Tenant received minimal benefit from the Unit and is not responsible for paying rent for February 2026.

[33] I find that the Landlord must return the February 2026 rent payment to the Tenant. There is no evidence that O.A. was a tenant of the Unit, and I find that O.A. was either a subtenant of the Tenant or an occupant. Although O.A. is named on the Application, I find that O.A. is not entitled to a return of rent in this matter, and any financial matters are between the Tenant and O.A.

B. Must the Landlord return double the $525.00 security deposit balance to the Tenant?

[34] 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.*

[35] In Order LR25-33, the Island Regulatory and Appeals Commission commented on a landlord's section 40 requirements stating as follows:

> "*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*."

[36] The Tenant provided evidence that, on May 23, 2023, T1 gave the Landlord written permission to keep $525.00 of the security deposit for damage to the kitchen countertop. There is no evidence that, in May 2023, the Landlord disagreed with keeping $525.00 for the damages. The Landlord did not participate in the hearing to testify on this matter, and I find that the Representative was unaware that the Landlord received this letter from T1 in 2023. Therefore, I find that the Landlord may keep $525.00 of the security deposit.

[37] The evidence establishes that the tenancy ended on April 30, 2026, when the Tenant notified the Landlord that she had returned the Unit's keys. The Landlord then had until May 15, 2026, to either return the $525.00 security deposit balance, plus interest, or file an application with the Rental Office. The evidence shows that the Landlord did neither and has not filed an application for compensation.

[38] There is no evidence that the Tenant agreed in writing to let the Landlord keep the $525.00 security deposit balance. No previous Rental Office Order permits the Landlord to keep the security deposit balance.

[39] I find that the Landlord did not comply with section 40 of the Act regarding the $525.00 security deposit balance. Therefore, by operation of law, the Landlord must not make a claim against the security deposit. The Landlord must return the $525.00 security deposit balance, including interest, and compensate the Tenant with double that amount under subsection 40(4).

CONCLUSION

[40] The Landlord must return the February 2026 rent payment of $1,050.00 to the Tenant.

[41] The Landlord must return the $525.00 security deposit balance, including interest, to the Tenant and compensate the Tenant under subsection 40(4) with double the $525.00 security deposit balance.

[42] The Landlord must pay the Tenant $2,149.45 by the timeline below.

[43] My calculations are as follows:

Item	Amount
February 2026 rent	$1,050.00
Security deposit balance	$525.00
Interest on $525.00 (Sept. 1/22 – Oct. 15/26)	$49.45
Double security deposit balance	$525.00
Total payable	**$2,149.45**

IT IS THEREFORE ORDERED THAT

1**.** The Landlord must pay the Tenant $2,149.45 by November 16, 2026.

DATED at Charlottetown, Prince Edward Island, this 15th day of October, 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.