



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission
Commission de réglementation et d'appels
ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: August 13, 2024

Dockets: LR24042

Type: Rental Appeal

INDEXED AS: Yujie Zheng and Bocheng Qi v. Jie Hu and Jiahua Zhou

Order No: LR24-47

BETWEEN:

Yujie Zheng and Bocheng Qi (the "Tenants")

Appellants

AND:

Jie Hu and Jiahua Zhou (the "Landlords")

Respondents

ORDER

Panel Members:

M. Douglas Clow, Acting Chair
Cynthia McCardle, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This appeal was heard by the Commission on July 9, 2024, and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in finding that the Landlords are entitled to retain funds paid as a security deposit.

B. BACKGROUND

2. The applicable legislation is the *Residential Tenancy Act* (the "Act").
3. On May 3, 2024 the Landlords filed a *Landlord Application to Determine Dispute (Form 2(B))* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed with the Rental Office for the following reason:
 - 1) To make claim against the full amount of the security deposit.
4. On June 4, 2024 at 9:00 a.m. a teleconference hearing was held before the Residential Tenancy Officer (the "Officer"). One of the Landlords, Jie Hu, and the Tenants, Yujie Zheng and Bocheng Qi, participated at the hearing.
5. Order LD24-193 was issued on June 14, 2024, which ordered that the Landlords are entitled to retain the \$800.00 paid by the Tenants, characterizing said payment as a security deposit.
6. The Tenants appealed Order LD24-193 on June 18, 2024.
7. The Commission heard the appeal on July 9, 2024, by way of telephone conference. Yujie Zheng and Bocheng Qi, (the "Tenants") and Jie Hu, on behalf of the Landlords (the "Landlords") the participated at the hearing.

C. DISPOSITION

8. The appeal is allowed. The \$800.00 paid by the Tenants to the Landlord shall be returned to the Tenants, together with interest for the period April 10, 2024 to the date of this Order.

D. SUMMARY OF EVIDENCE

9. The Tenants testified that they arrived in Canada on December 2023. They stated that they were persuaded to pay \$800.00 to the Landlord before entering into a contract as the Landlord informed them that their future roommate had already paid a deposit. There was some confusion over the street address. The Tenants submit there was no written lease and discussion over the terms had not been finalized; therefore, they never reached an oral tenancy agreement. They submitted that the Landlords altered the terms and then they, the tenants, decided not to move in and requested their \$800.00 back.
10. Ms. Hu, on behalf of the Landlords, testified that the only thing that was confusing about the street address was the number on the old mailbox was different than the actual

address. She testified that she did not press for a security deposit; however, she did have many applicants for the room. She stated that the room was advertised on Facebook as \$600.00 per month not including furniture. She stated that the parties had agreed to \$800 per month including furniture and internet. She testified that she was able to re-rent the room for June 2024. She testified that the tenancy was to start on May 1, 2024 but the Tenants informed her on April 28, 2024 that they would not move in.

E. ANALYSIS

11. Subsection 11(1) of the *Residential Tenancy Act* (the "Act") is mandatory and requires a landlord to prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the Act came into force. The Commission notes that the Act came into force on April 8, 2023. The Commission finds that there was no written tenancy agreement between the parties. There were discussions, and some of these discussions were recorded in various text messages between the parties.
12. At the most, the parties had an agreement in principle. However, the Act requires a tenancy to have a written tenancy agreement for tenancies that start on or after April 8, 2023 and the onus to prepare such a written agreement rests on a landlord. Text messages suggesting the parties agreed on fundamental terms does not meet the requirements of the Act.
13. The Commission finds that there is no tenancy agreement between the parties and therefore the Landlord was required to return the \$800.00 paid by the Tenants.
14. Accordingly, the Commission allows the appeal, reverses the outcome of Order LD24-193, and requires the Landlord to return the \$800.00 paid by the Tenants, together with interest, within 15 days of the date of issue of the Commission's Order. The Commission finds that the period for calculating interest commences on April 10, 2024 when the Tenants made the \$800.00 payment and concludes on the date the Commission issues this Order.

F. CONCLUSION

15. There was no tenancy agreement as subsection 11(1) requires a landlord to prepare a written tenancy agreement between the parties and there was no such agreement. Order LD24-193 is reversed, and the Landlord must return the \$800.00 paid by the Tenants together with interest.

IT IS ORDERED THAT

1. **The appeal is allowed and Order LD24-193 is reversed.**
2. **The Landlord must return the \$800.00 paid by the Tenants, together with interest calculated between April 10, 2024 and the date of this Order.**

3. The total sum of \$806.15 must be paid no later than 15 days from the date of this Order.

DATED at Charlottetown, Prince Edward Island, 13th day of August, 2024.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Acting Chair

(sgd. Cynthia McCardle)

Cynthia McCardle, Commissioner

NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.