



Date Issued: September 12, 2024
Dockets: LR24051
Type: Rental Appeal

INDEXED AS: Erin Robertson v. Amanpreet Kaur Kailey, Baljit Kaur, Simran Simran,
Simranjeet Kaur and Pardeep Singh

Order No: LR24-55

BETWEEN:

Erin Robertson (the "Landlord")

Appellant

AND:

Amanpreet Kaur Kailey, Baljit Kaur, Simran Simran,
Simranjeet Kaur, and Pardeep Singh (the "Tenants")

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 September 3, 2024, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that The Landlord must pay the Tenants the following amounts by July 30, 2024:
 - a) \$702.48 to AK;
 - b) \$351.24 to SS;
 - c) \$351.24 to SK; and
 - d) \$351.24 to PS.

B. BACKGROUND

2. On December 20, 2023 the Landlord filed a first *Landlord Application to Determine Dispute (Form 2(B))* (the “First Application”) with the Residential Tenancy Office (the “Rental Office”) for unpaid December rent and utilities.
3. On January 2, 2024 the Landlord filed a second *Landlord Application to Determine Dispute (Form 2(B))* (the “Second Application”) with the Rental Office to retain the security deposit.
4. On January 5, 2024 the Landlord filed a third *Landlord Application to Determine Dispute (Form 2(B))* (the “Third Application”) with the Rental Office. The Third Application was filed also seeking to retain the security deposit plus additional compensation.
5. On April 2, 2024 an original Rental Office hearing was held for determination of the Applications before another Residential Tenancy Officer. The Landlord and two of the tenants were represented at the hearing.
6. On April 17, 2024 Order LD24-130 was issued. The Landlord was authorized to retain the entire security deposit plus compensation of \$1,756.23.
7. On April 29, 2024 the Landlord appealed Order LD24-130 to the Island Regulatory and Appeals Commission seeking higher compensation.
8. On May 17, 2024 the Rental Office advised the Landlord and the Tenants that a new Rental Office hearing would be held for determination of the Applications because three of the Tenants were not properly served with the Applications, notice of the April 2, 2024 hearing, documentary evidence and these three tenants did not participate in the earlier hearing. Due to these procedural fairness problems Order LD24-130 is a nullity and the Applications have been considered afresh in this decision.¹
9. On May 28, 2024 the Landlord and all five of the Tenants were represented in a new hearing with the Residential Tenancy Officer (the “Officer”).

¹ See paragraph 80 of *Chandler v. Assn of Architects* ([1989] 2 SCR 848).

10. Order LD24-222 was issued by the Residential Tenancy Office on May 28, 2024, which Ordered
 1. The Applications are denied.
 2. The Landlord and the Tenants' tenancy agreement ended on September 30, 2023.
 3. The security deposit of \$2,550.00, plus interest, held by the Landlord does not belong to the Tenants (AK, BK, SS, SK and PS) because they were already repaid. The Tenants have no claim against the security deposit because it is no longer their security deposit.
 4. The Landlord must pay the Tenants the following amounts by July 30, 2024:
 - a) \$702.48 to AK;
 - b) \$351.24 to SS;
 - c) \$351.24 to SK; and
 - d) \$351.24 to PS.
11. The Landlord appealed Order LD24-222 on July 29, 2024.
12. The Commission heard the appeal on September 3, 2024, by way of telephone conference. The Landlord, Erin Robertson, attended and the Tenants, Pardeep Singh, Simran Simran, Simranjeet Kaur and Amanpreet Kaur Kailey, attended.

C. DISPOSITION

13. The appeal is dismissed and Order LD24-222 is upheld and confirmed in its entirety.

D. SUMMARY OF EVIDENCE

14. The Landlord filed written submissions in support of her appeal (Exhibit A-1, pages 279 to 290 of the Commission file record). She emphasised at the hearing that she requested in September 2023 that the Tenants set up an oil account; however, this was not done. She stated that it was her understanding that she did not have to pay the sums of money to the Tenants as she filed the appeal with the Commission and would await the direction of the Commission.
15. The Tenants who were present at the hearing testified that they needed to sublet their rooms and had provided the Landlord with names and references. The Tenants stated that the Landlord Tenants did not hear back from the Landlord as to whether the proposed sub-tenants had been accepted. The Tenants stated that the Landlord then received rent directly from the sub-tenants. The Tenants maintain that they did not cause any damage to the residential premises. The Tenants stated that they together had already paid \$1,756.23. The Tenants expressed concern that the Landlord has not paid them the sums of money that she was ordered to pay under Order LD24-222.

E. ANALYSIS

16. Pursuant to subsection 89(6) of the *Residential Tenancy Act* (the "Act"), the service of a Notice of Appeal on the Commission automatically stays a Rental Office order. Accordingly, having filed an appeal with the Commission, the Landlord was not required to pay the Tenants the sums of money set out in Order LD24-222 until the Commission determined the matter at the conclusion of the appeal process.
17. While the Landlord has filed detailed written submissions (Exhibit A-1), the Commission finds that there is no new evidence to warrant reversing Order LD24-222.
18. The Commission has carefully reviewed Order LD24-222, the 297 pages of documentation on file and the testimony of the parties before the Commission. The Commission agrees with the summary of the facts, the reasoning and the outcome set out in Order LD24-222. Order LD24-222 provides a very thorough summary of a rather complex matter, make appropriate and reasonable findings of fact and provides very comprehensive and compelling reasoning in support of the ordered outcome. The Commission therefore fully adopts the reasoning set out in Order LD24-222.
19. Accordingly, the Commission dismisses the appeal, confirms Order LD24-222 and orders the Landlord to pay the funds to the Tenants as set out in Order LD24-222.

F. CONCLUSION

20. The appeal is dismissed and Order LD24-222 is confirmed.

IT IS ORDERED THAT

1. **The appeal is dismissed.**
2. **Order LD24-222 is confirmed.**
3. **The Landlord must pay the following amount to the listed Tenants within 15 days of the date of the Commission's Order:**
 - (a) **\$702.48 to Amanpreet Kaur Kailey;**
 - (b) **\$351.24 to Simran Simran;**
 - (c) **\$351.24 to Simranjeet Kaur; and**
 - (d) **\$351.24 to Pardeep Singh.**

DATED at Charlottetown, Prince Edward Island, 12th day of September, 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.