



**Date Issued:** September 12, 2024  
**Dockets:** LR24052  
**Type:** Rental Appeal

INDEXED AS: Jaspreet Singh. V. Gurjinder Singh and Kavita Kavita  
Order No: LR24-56

**BETWEEN:**

Jaspreet Singh (the "Landlord")

**Appellant**

**AND:**

Gurjinder Singh and Kavita Kavita (the "Tenants")

**Respondents**

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## ORDER

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Panel Members:

M. Douglas Clow, Acting Chair  
Cynthia McCardle, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

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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 pay double the security deposit plus interest to the Tenants in the amount of \$2,016.35 by July 29, 2024.

## **B. BACKGROUND**

2. On May 16, 2024 the Tenants filed a *Form 2 (A) Tenant Application to Determine Dispute* (the “Tenants’ Application”) with the Residential Tenancy Office (the “Rental Office”) seeking a monetary order for double the security deposit, in the amount of \$2,000.00 plus interest.
3. On June 4, 2024 the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the Landlord’s Application”) with the Rental Office seeking compensation exceeding the security deposit, in the total amount of \$1,000.00.
4. In this decision the Tenants’ Application and the Landlord’s Application are collectively referred to as the “Applications.”
5. On July 9, 2024 at 9:00 a.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Tenants and the Landlord participated at the hearing.
6. The Residential Tenancy Office issued Order LD24-231 on July 17, 2024, which ordered the Landlord to pay to the Tenants \$2,016.35 by July 29, 2024. .
7. The Landlord appealed Order LD24-231 on July 29, 2024. .
8. The Commission heard the appeal on September 3, 2024, by way of telephone conference. The Landlord was self represented and the Tenants were represented by Kavita Kavita.

## **C. DISPOSITION**

9. The appeal is dismissed and Order LD24-231 is confirmed, subject to an updating of the interest payable.

## **D. SUMMARY OF EVIDENCE**

10. The Landlord testified at some considerable length as to the damages he alleges that the Tenants did to the rental property. When questioned by the Commission panel, the Landlord stated that he was unaware he had to file a Form 2B with the Rental Office within 15 days of the end of the tenancy. He stated that he did serve the Tenants within 15 days. He referenced damage to his lawn, a broken shower drain plug, a broken toilet paper holder leaving the washroom unclean, damage to a microwave and placing a plastic bottle in a green (compost) bin.

11. The Tenants testified that the damage to the Landlord's Lawn had occurred with other houses in the neighbourhood as a result of cars parking on the street. With respect to the other matters, they suggested that the Landlord did not have an issue with such matters until the Landlord's non-compliance denied him a claim against the security deposit.

## E. ANALYSIS

12. The evidence before the Commission is that the Landlord did serve the first Form 2(B) Landlord Application to Determine Dispute, dated May 7, 2024 on the Tenants within 15 days of the termination of the tenancy on April 30, 2024. However, the Landlord did not follow the requirements of subsection 40(1) of the Residential Tenancy Act (the "Act"):

*40. Return of security deposit*

*(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.*

Emphasis added by the Commission.

13. As the Landlord did not make application to the Rental Office or Director to claim against the security deposit within 15 days of the end of the tenancy, the consequences of such non-compliance are spelled out in subsection 40(4) of the Act:

*Consequences of non-compliance*

*(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.*

14. The Landlord did file a second Form 2(B) which the Rental Office received on June 4, 2024. This form appears to be a claim independent of a claim against the security deposit. The Landlord has checked off the following remedy:

*(f) ---- To seek compensation exceeding the security deposit in the amount of \$ 1000.*

15. The Landlord has made several claims for damage that he attributes to the Tenants. However, this appeal must be considered in context. The Tenants were not renting a house or an apartment. They were renting a room. The common area, kitchen and bathroom were shared with others.

16. The Landlord's primary claim appears to be damage to what he characterized as his lawn. He has provided several receipts for products and equipment rental that he spent to repair this damage. He asserts that with credit for his personal labour, this would be about \$1,000.00. The tenancy agreement states that there was to be no driveway parking. From the pictures provided, the primary damage to the lawn consisted of a rut in the lawn immediately adjacent to the street curb, which tends to suggest it occurred when a vehicle attempted to park on the street but rode over the curb. The Commission takes notice that the street, curb and land adjacent to the curb would be within the 66-foot public right of way. Accordingly, he is seeking compensation for damage to property he does not own and the Commission cannot award the Landlord a damage claim for damage to City property. Other pictures suggest some damage to his lawn immediately beside the driveway, which might have been caused by car tires from attempts to fit more than one vehicle in the driveway. Or, it might have been caused by snow removal equipment. In either case, the Commission finds that such damage to the lawn immediately beside the driveway is consistent with ordinary wear and tear, and may very well have been done by others since the tenancy agreement did not permit the Tenants to use the driveway. It still might have been caused by the Tenants' car. It might have been caused by someone else's car. Accordingly, for all these reasons, the Commission rejects the lawn damage claim.
17. The Landlord also makes a claim for a new bathtub drain stopper and a new toilet roll holder. Bathtub drain stoppers and toilet roll holders are usually inexpensive items, and breakage of such items could be consistent with normal wear and tear. The damage could have been caused by other tenants. He also claimed damage to the microwave and a new part was required. He also makes a claim for paint.
18. The Landlord has provided a receipt for \$86.25 for a "shutter" from a local appliance store that sells appliance parts. Based on a search of the model number, this part is for a microwave. However, the kitchen was a shared area and accordingly this damage cannot be solely attributed to the Tenants. This claim is denied.
19. The Landlord has provided a screenshot of a very expensive "rotary turn bath drain trim". However, there is no receipt for any drain stopper. The damage may have been caused by the Tenants. Or, it may have been caused by others who had use of the bathroom. The Commission denies this claim.
20. There is no receipt for a new toilet paper holder. Further, again given that the accommodation was shared, it is not certain that the Tenants were the cause of this damage. This claim is denied.
21. Without before and after pictures with appropriate date stamps it is not possible to attribute the alleged damage to the Tenants and such claim would also need to be restricted to an area they had exclusive use of, in other words their room. Accordingly, the claim for paint is denied.
22. As heat and electricity are included services in the tenancy agreement the Landlord is not permitted to make a claim for electricity in spite of his numerous electricity receipts.

23. For these reasons, the Commission agrees with the outcome and reasoning of Order LD24-231 and therefore this appeal is dismissed.

24. As a result of the appeal, the interest owing by the Landlord to the Tenant is updated to reflect the additional time for which the Landlord held the security deposit.

## F. CONCLUSION

25. The appeal is dismissed. Order LD24-231 is confirmed, subject to an increase in the interest payable to the Tenants.

## IT IS ORDERED THAT

1. The appeal is dismissed.
2. Order LD24-231 is confirmed, subject to a variation (increase) in the interest payable on the security deposit.
3. The Tenants' compensation is calculated as follows:

Security Deposit	\$1,000.00
Interest – November 1, 2023 to date of Commission Order	\$ 19.92
Security Deposit – double award	\$1,000.00
<b>Total compensation awarded to Tenants</b>	<b>\$2,019.92</b>

**DATED** at Charlottetown, Prince Edward Island, 12<sup>th</sup> day of September, 2024.

## BY THE COMMISSION:

(sgd. M. Douglas Clow)

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M. Douglas Clow, Acting Chair

(sgd. Cynthia McCardle)

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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.