



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: June 3, 2025
Dockets: LR25012
Type: Rental Appeal

INDEXED AS: Xianfeng Yue and Ying Zhao v. Steve Dyer
2025 PEIRAC 19 (CanLII)
Order No: LR25-17

BETWEEN:

Xianfeng Yue and Ying Zhao (the “Landlords”)

Appellants

AND:

Steve Dyer (the “Tenant”)

Respondent

ORDER

Panel Members:

Kerri Carpenter, Vice Chair
Pamela J. Williams, K.C., Chair

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This appeal by the Landlords was heard by the Commission on April 15, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Landlords pay the Tenant \$2,976.46 by April 28, 2025.

B. BACKGROUND

2. The appeal concerns a rental unit located at 66 Hillside Avenue, Summerside, PEI (the “Rental Unit”). On May 27, 2021, the parties entered into a written fixed-term tenancy agreement from July 1, 2021, to June 30, 2022. The tenancy agreement then converted to a month-to-month agreement. Rent was \$1,493.50 monthly, and a security deposit of \$1,450.00 was paid at the beginning of the tenancy.
3. On August 30, 2024, the Tenant moved out of the Rental Unit, and the tenancy ended.
4. On October 8, 2024, the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the “Tenant Application”) with the Residential Tenancy Office (the “Rental Office”), seeking a return of double the security deposit.
5. On January 3, 2025, the Landlords filed a *Form 2 (B) Landlord Application to Determine Dispute* (the “Landlord Application”) with the Rental Office, seeking compensation for cleaning, repairs to the floors and walls and repainting the Rental Unit.
6. On February 13, 2025, the Tenant and a Landlord representing both the Landlords participated in a teleconference hearing with the Rental Office. Both parties stated at that hearing that they received a copy of the revised evidence package and that all documents submitted to the Rental Office were included in the revised evidence package.
7. On February 27, 2025, the Residential Tenancy Office Issued Order LD25-067, which ordered that the Landlords pay the Tenant \$2,976.46 being double the damage deposit by April 28, 2025 and found that the Landlords did not establish their claim for \$2,300, which represents 30% of their costs and estimated costs for cleaning, refinishing the floors and repainting the walls.
8. The Landlords appealed Order LD25-067 on March 17, 2025 with respect to the Order requiring the Landlord pay the Tenant double the damage deposit and the denial of the Landlord’s claim of \$2,300 for cleaning and repairs.
9. The Commission heard the appeal on April 15, 2025, by way of telephone conference. The Landlords were represented at the hearing by Xianfeng Yue (the “Landlord”). The Tenant, Steve Dyer, (the “Tenant”) attended the hearing on his own behalf.
10. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the “Act”).

C. DISPOSITION

11. The appeal is allowed in part. The Commission awards the Landlord a portion of the claim for cleaning and a portion of the claim for floor damage, such claims to be offset against the return of double the security deposit.

D. ISSUES

12. (a) Does the Landlord have to return double the security deposit?
(b) Does the Tenant have to compensate the Landlord for damages?

E. SUMMARY OF EVIDENCE

13. With respect to the damage deposit issue, the Landlord testified that he required more time to calculate the cost of the damages than 15 days and that the Tenant was informed of this. This was not challenged by the Tenant.
14. With respect to the cleaning and damages claim, the Landlord testified that he submitted new evidence in the form of submissions, see Exhibit A-1, and photographs, see Exhibit A-2. The Landlord reviewed the photographs contained in Exhibit A-2, referencing a pet door installed in an outside door, floor scratches, dog bite marks, holes in walls from fasteners and other similar type damage he asserts was caused by the Tenant and his dogs. The Landlord stated that he has not yet had the repairs done. The Landlord did have the cleaning done, see Exhibit E-14. The Landlord stated that there was dog hair in the ventilation system and this is supported by the photograph, see Exhibit 16. The Landlord stated that the Tenant had lived in the Rental Unit for three years.
15. The Landlord testified that he never agreed that the Tenant could have dogs.
16. The Tenant testified that the Rental Unit was dirty and marked up when he moved in to the Rental Unit in July 2021. He stated he was supposed to move in July 1, but could not due to "clutter" and the Landlord therefore pro-rated July 2021 rent. He had to do cleaning and a deduction of rent was worked out. He referenced Exhibit E-7, a note that he had sent to the Landlord shortly after he moved in, which notes various issues with the condition of the Rental Unit. The Tenant stated that he could not find the email he used to send E-7 to the Landlord. The Tenant testified that he sent it to the Landlord within a month of moving in. The Tenant stated that pages 63, 67 and 68 of the file record (a part of Exhibit E-10) shows what the floor looked like when he moved in. He acknowledged that while the floors were worn there are no deep scratches showing in those pictures. He stated that page 51 shows the outside door with the pet door. He stated that Exhibit E-9, a heating fuel invoice dated August 29, 2024, establishes that he filled the oil tank before moving out.
17. The Tenant testified that 8 or 9 months after he moved in he asked the Landlord about having a dog. The Landlord told him that he would raise the rent if there was a dog. The Tenant then got a dog and at some time later got a second dog. He testified that the deep scratches on the floor (see page 108) were caused by his couch after the leg coaster came off. When pictures of the floor on pages 206, 207 and 208 were brought to his attention he stated that he cannot confirm or deny but stated that the floors were not in

great shape when he moved in. He stated that he did not put any fastener holes in the walls. He acknowledged that both of his dogs were large breeds.

F. ANALYSIS

18. In relation to issue (a), the Commission confirms that section 40 of the *Act* addresses the retention and return of the security deposit. As found by the Rental Office, the tenancy ended on August 30, 2024 and the Landlord had 15 days to either return the security deposit to the Tenant or file an application with the Rental Office to keep the security deposit, but the Landlord did neither. The Landlord testified that 15 days was not enough time to calculate the damage deposit return and that he informed the Tenant he would require additional time.
19. Under section 40, the landlord has 15 days from the end of the tenancy to issue the payment of the damage deposit to the tenant with interest or to make an application to the Director under section 75 claiming against the security deposit. Section 40(2) and (3) deal with the exceptions to this provision. The landlord can set off the security deposit from a previous director order which remains unpaid at the end of the tenancy or a landlord may retain an amount of the security deposit if at the end of the tenancy the landlord and tenant agree in writing as to the obligation of the tenant to pay or the Director orders that the landlord may retain the amount. There is no evidence to establish one of the exceptions apply.
20. Section 40(4)(a) states:

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.
21. Given the mandatory language of this section with the use of the word “shall”, the Commission does not have any discretion to allow forgiveness around the timeliness of compliance with the 15 days. Therefore, the Commission confirms the decision of the Rental Office in finding that the Landlord is required to pay the Tenant double the damage deposit plus interest.
22. The remaining issue, issue (b), is whether or not the Landlord has established a claim for damages that can be set off against the amount owing with respect to the damage deposit.
23. Section 39 of the *Act* provides that at the end of the Tenancy the Tenant shall leave the rental unit reasonably cleaned and undamaged, except for reasonable wear and tear.
24. Having reviewed 221 pages of documentary evidence and having reviewed the testimony of the parties, the Commission finds that the rental unit was not left in the condition required by the *Act* and allows the appeal in part, awarding \$302.57 (30% of the cleaning invoice found in Exhibit E-14 in the amount of \$1,008.55) for cleaning and \$1,050.00 (30% of the Landlord’s rough estimate of the cost to refinish the hardwood floors in the amount of \$3,500.00) for a total of \$1,352.57 which may be offset against the return of the security deposit. The Commission does not award any amount for repair or painting of the walls.

25. With respect to cleaning, the evidence before the Commission is that the Rental Unit required significant cleaning before the Tenant moved in. The Tenant did that cleaning himself, and the Landlord compensated him by reducing the rent for July 2021. The evidence establishes that a deep or very thorough cleaning was done at the end of the tenancy by a professional cleaning company. The total cost of this cleaning was \$1,008.55 of which the Landlord sought 30% from the Tenant. The evidence provided indicated that there was extra cleaning required in the rental unit as a result of the Tenant's dogs. Although there was no consensus on whether the Tenant had the Landlord's permission to have the dogs, the Commission finds that the Tenant would be responsible to clean the unit so that the Tenant's dogs left little to no trace of their presence. The Commission finds that a sum of \$302.57 is reasonable and awards that amount.
26. With respect to floor damage, the Landlord estimates it would cost him \$3,500.00 to refinish the hardwood floors. Given the condition as demonstrated in the photographs, such a figure does not appear to be inflated or exaggerated. The Commission finds that the deep scratches on the floors and the baseboard damage was more than likely caused by the Tenant's two large dogs and the damage is in excess of "reasonable wear and tear". Both parties acknowledge the floors were imperfect when the Tenant moved in. The Landlord seeks from the Tenant 30% of the estimated refinish costs for the floors. The Commission finds the sum of \$1,050 represents a reasonable figure and awards that amount. The Commission includes in this award the cost of replacement of baseboard and trim damaged by dog bites.
27. The Commission rejects any claim for wall damage other than baseboard / trim dog bites as the wall markings and fasteners holes are both readily apparent in the move in and move out pictures. Any other marks are consistent with reasonable wear for a three-year tenancy. Accordingly, the claim for painting / refinishing the walls is rejected.
28. The Commission rejects any furnace oil top up claim. Exhibit E-9 establishes that the Tenant topped up the tank shortly before he moved out. There is no objective evidence from the Landlord to challenge this.
29. With respect to the "damage" to an outside door by the installation of a pet door, the Commission rejects such a claim. Photographs appear to show that pet door both at the beginning and end of the tenancy. Furthermore, the pet door appears to be of the size for a cat or a toy breed of dog. The Tenant testified as to the breeds of his dogs, both of which are large breeds. It is therefore highly improbable that the Tenant installed this pet door.
30. The Commission agrees that a double security deposit should be awarded. The evidence establishes that the Landlord failed to comply with the requirements of section 40 of the *Act*, and this failure to comply triggers a double award. Neither the Rental Office nor the Commission has any discretion to reduce such award. The double security deposit amount is \$2,900.00 (\$1,450.00 x 2). The interest to date of Order LD25-067 is \$76.46, calculated on the original \$1,450.00 security deposit. Added to this is the sum of \$9.88, representing interest earned from February 28, 2025 to the date of this Commission Order. The total with all interest is \$2,986.34 [\$2,976.46 + \$9.88].

31. Offset from the above figure of \$2,986.34 [$\$2,976.46 + \9.88] is the following awards to the Landlord:

- \$302.57 for cleaning
- \$1,050.00 for floor refinishing

32. Accordingly, the Landlord must return the sum of \$1,633.77 [$\$2,976.46 + \$9.88, - \$302.57, - \$1,050.00$].

G. CONCLUSION

33. The appeal is allowed in part and a partial award to the Landlord for cleaning and floor refinishing is offset from the double security deposit. The net sum must be returned to the Tenant.

IT IS ORDERED THAT

1. The appeal is allowed in part. Order LD25-067 is varied pursuant to the following:
2. The double security deposit is \$2,900.00, initial interest to February 27, 2025 is \$76.46, interest to the issue date of this Commission Order is \$ 9.88, for a total of \$2,986.34.
3. An award of \$302.57 for cleaning and \$1,050.00 for floor refinishing is made to the Landlord, to be offset from the total double security deposit together with interest.
4. The Landlord must pay the Tenant the sum of \$1,633.77. This sum must be paid no later than June 30, 2025.
5. In all other respects, Order LD25-067 is confirmed.

DATED at Charlottetown, Prince Edward Island, 3rd day of June, 2025.

BY THE COMMISSION:

[sgd. Kerri Carpenter]
Kerri Carpenter

[sgd. Pamela J. Williams]
Pamela J. Williams, K.C.

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.