



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: June 27, 2025

Dockets: LR25021

Type: Rental Appeal

INDEXED AS: Lida Holdings Inc. v. Jeff Clory

2025 PEIRAC 28 (CanLII)

Order No: LR25-26

BETWEEN:

Lida Holdings Inc. (the "Landlord")

Appellant

AND:

Jeff Clory (the "Tenant")

Respondent

ORDER

Panel Members:

Gordon MacFarlane, Commissioner
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 was heard by the Commission on May 12, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Landlord will return the Tenant’s security deposit to the Tenant, in the amount of \$799.65, including interest, by May 14, 2025.

B. BACKGROUND

2. This appeal concerns a rental unit located at 108-5550 Rte 2, St. Peters Bay, PEI (the “Rental Unit”). The Rental Unit is a one-bedroom and one-bathroom unit in a 14-unit building (the “Residential Property”).
3. On January 20, 2025, the parties discussed by text message the Tenant renting a rental unit in the Residential Property. After another rental unit became unavailable, the Tenant showed interest in the Rental Unit.
4. Between January 24 and February 6, 2025, the parties discussed the terms of the tenancy. The tenancy was to begin February 19, 2025. Rent was \$796.00, due on the first day of the month. On January 31, 2025, the Tenant informed the Landlord that he wanted the Rental Unit. On February 6, 2025, the Tenant paid a \$796.00 security deposit. The parties did not discuss a fixed-term or month-to-month term.
5. On February 15, 2025, the Tenant informed the Landlord that he would not move into the Rental Unit until March 1, 2025, and requested that the tenancy agreement be month-to-month. The Landlord stated that the Rental Unit was cleaned and was ready for move-in. The Landlord did not disagree with the Tenant moving into the Rental Unit on March 1, 2025; however, the Landlord did not respond to the Tenant’s request for a month-to-month term.
6. On February 21, 2025, the Tenant informed the Landlord that he had lost his job and he was not able to afford the Rental Unit.
7. On February 27, 2025, the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the “Tenant Application”) with the Rental Office seeking the return of the security deposit, including interest, and compensation for double the security deposit.
8. On February 28, 2025, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Landlord Application”) with the Rental Office seeking to keep the Tenant’s security deposit, including interest for rent owing.
9. On March 17, 2025, the Landlord amended the Landlord Application, seeking additional compensation for rental income losses for other rental units in the Residential Property, in the amount of \$2,459.00. Collectively, the Tenant Application and the Landlord Application are referred to as the “Applications.”
10. The Applications were sufficiently served to the respondent parties under subsection 76(2) of the *Residential Tenancy Act* (or the “Act”).

11. On April 10, 2025, the Tenant and the Landlord joined the Rental Office teleconference hearing. The parties confirmed receipt of the Evidence Package and confirmed that all documents submitted to the Rental Office were included.
12. On April 14, 2025, the Rental Office issued Order LD25-137, which ordered the Landlord to return the Tenant's security deposit, including interest to the Tenant, in the amount of \$799.65 by May 14, 2025.
13. The Landlord appealed Order LD25-137 on April 22, 2025.
14. The Commission heard the appeal on May 12, 2025, by way of telephone conference. Ruijiang (Rick) Li attended as representative for the Landlord, Lida Holdings Inc. (the "Representative") and the Tenant, Jeff Clory attended the hearing.
15. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the "*Act*").

C. DISPOSITION

16. The appeal is dismissed and Order LD25-137 is confirmed, subject to an updating of the interest earned on the security deposit.

D. ISSUES

17. Was there a tenancy agreement between the Landlord and Tenant?

E. SUMMARY OF EVIDENCE

18. The Representative testified that as a landlord he feels he is following all the rules and regulations.
19. The Representative testified that on January 18, 2025, he met with the Tenant and showed him one of the rooms, informing him that another room would soon be available. He testified that there was an exchange of text messages between the parties. On February 6, 2025, the parties met to discuss terms and agreed on "everything". The Representative testified that the Tenant then paid the security deposit and they agreed that he would move in to the Rental Unit on February 19, 2025. This move in date was then changed to March 1, 2025. The Representative testified that on February 21, 2025 he was informed by the Tenant that he had lost his job and therefore could not move in to the Rental Unit.
20. The Representative submitted that under the definition section of the *Act* a tenancy agreement may be made verbally. He submitted that he has a verbal tenancy agreement, the Tenant breached this agreement and the Tenant must give one month notice or pay one month's rent in place of that notice. The Representative believes that he is therefore able to keep the security deposit as payment for the rent owed to the Landlord, and that the Officer was correct in not awarding a double security deposit return but was incorrect in disallowing the verbal agreement.

21. The Representative acknowledged that he has used written tenancy agreements with other tenants. He stated that he had informed the Tenant that they could meet to sign an agreement and then he would hand over the key.
22. The Tenant testified that there was no tenancy agreement, he was not provided a key to the Rental Unit and that he never had possession of the Rental Unit. The Tenant stated that at first the Representative expressed a willingness to return some of the deposit but then the Tenant told the Representative he would go to the Rental Office to seek a return of the full deposit.

F. ANALYSIS

23. The Commission finds that there was no tenancy agreement and, therefore, the appeal is dismissed and Order LD25-137 is confirmed. However, the \$799.65 originally awarded to the Tenant will be increased as additional interest has accrued on the security deposit from April 15, 2025 to the date of the Commission order. The reasons for this disposition follow.
24. Based on a review of the Landlord's Notice of Appeal and his oral submissions before the Commission, the Commission confirms that the appeal only seeks the remedy of the Landlord's retention of the full security deposit. As neither the Landlord company, nor the Representative, has challenged the Officer's other rulings in Order LD25-137, including the ruling of the Landlord's prior claim for rental income loss, the Commission determines that the Landlord has accepted all of the rulings in Order LD25-137 except the ruling that the security deposit together with interest be returned to the Tenant.
25. Clause 1(w) of the *Act* defines tenancy agreement:

1.(w) "tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and the provision of services and facilities;

26. In his oral submissions to the Commission, the Representative relies on clause 1(w) that there was in fact a tenancy agreement between the parties as the text messages and face to face discussions formed an oral tenancy agreement.
27. However, the Commission points to subsection 11(1) of the *Act*, which reads:

11. Tenancy agreement in writing

- (1) *A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*

28. In addition, subsection 11(2) sets out requirements of a tenancy agreement:

Formal requirements

- (2) *The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*

[...]

(i) *The agreed terms in respect of*

[...]

(ii) *If the tenancy is a periodic tenancy, whether it is on a weekly, monthly or periodic basis,*

(iii) *If the tenancy is a fixed-term tenancy, the date on which the term ends.*

30. Subsections 11(1) and (2) of the *Act* are mandatory and require a landlord to prepare a written tenancy agreement that complies with the *Act* and includes the agreed terms.
31. A review of the text messages (see Exhibit E-18, pages 32 to 34 of the Commission's Record) indicates to the Commission that although some of the terms of a future tenancy agreement were discussed, there was no discussion on whether the tenancy would be on a month-to-month basis or a fixed term basis, as required by clause 11(2)(i)(ii).
32. The text messages and in person discussions were merely discussions with agreement on some of the terms but these messages and discussions do not meet all the requirements of subsections 11(1) and (2). In effect, while the parties' discussions were leading up to a tenancy agreement, not all the required terms had been agreed to and no written tenancy agreement was prepared.
33. As pointed out by the Residential Tenancy Officer in Order LD25-137, the Commission has made similar findings in previous orders, including LR24-47 and LR25-10.
34. Accordingly, the Commission finds that there was no tenancy agreement and accordingly, the funds paid by the Tenant to the Landlord must be returned to the Tenant, together with interest earned on these funds.
35. As an aside, had the Commission determined that the parties had a valid tenancy agreement, section 40 of the *Act* would apply and a return of double the security deposit may very well have resulted. However, in the present appeal the Landlord is not subject to section 40 as the Commission has found that there is no tenancy agreement, and therefore a simple return of funds paid, plus interest, is all that is required of the Landlord.
36. With respect to the funds to be returned, the Tenant paid the Landlord the sum of \$796.00 on February 6, 2025. The Officer in Order LD25-137 calculated interest earned to April 14, 2025 in the amount of \$3.65, for a total owing of \$799.65. To this sum, the Commission adds additional interest in the amount of \$3.98 to cover the period from April 15, 2025 to the issue date of the Commission's Order. Accordingly, the Landlord owes the sum of \$803.63 [\$799.65 + \$3.98].

G. CONCLUSION

36. The appeal is dismissed. There is no tenancy agreement and therefore the funds paid by the Tenant to the Landlord must be returned together with interest. As there was no tenancy agreement, section 40 does not apply.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Order LD25-137 is confirmed, subject to an adjustment in the interest payable.
3. The Landlord must return the sum of \$803.63, representing the \$799.65 ordered under Order LD25-137 plus interest, in the amount of \$3.98, earned from April 15, 2025 to the issue date of this Commission Order.
4. The sum of \$803.63 must be paid by the Landlord to the Tenant within 30 days of the issue date of this Commission Order.

DATED at Charlottetown, Prince Edward Island, 27th day of June, 2025.

BY THE COMMISSION:

[sgd. Gordon MacFarlane]

Gordon MacFarlane, Commissioner

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

Pamela J. Williams, K.C., Chair

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.