



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: July 11, 2025

Dockets: LR25034

Type: Rental Appeal

INDEXED AS: Giffen et al. v. DeVries and DeVries

2025 PEIRAC 31 (CanLII)

Order No: LR25-30

BETWEEN:

Yvonne Giffen, Makayla Plante, Tifara Plante and Janoah Plante (the “Tenants”)

Appellants

AND:

Stephen DeVries and Thamara DeVries (the “Landlords”)

Respondents

ORDER

Panel Members:

Pamela J. Williams, K.C., Chair
Gordon MacFarlane, Commissioner

Compared and Certified a True Copy

(Sgd.) Jessica Gillis

General Counsel

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This is an appeal of an Order of the Residential Tenancy Office (the “Rental Office”) to terminate the tenancy between the parties on the basis that the Tenants had not paid rent since April 2025. The Appeal was filed by the Tenants on June 19, 2025, and asked for “more time” to leave the premises because it was difficult for them to find another place to live.
2. The Commission heard the appeal by way of a paper-based hearing and, despite the grounds of appeal articulated by the Tenants, considered the appeal on its merits and whether the Rental Office erred in terminating the tenancy between the parties.

B. BACKGROUND

3. This appeal concerns a rental unit located at 267 Stead Road, Wheatley River, PEI (the “Rental Unit”). The Rental Unit is a single-family home.
4. On February 3, 2025, the parties entered into a written, fixed-term tenancy agreement with an end date of February 3, 2026. A \$2,000.00 security deposit was paid. Rent in the amount of \$2,900.00 is due on the third day of the month. The tenancy agreement indicates that “internet, oil, electricity, snow removal, [and] grass cutting” are not included.
5. The history between these parties includes a prior eviction dispute resulting in Order LD25-150, issued by the Rental Office on April 24, 2025. The Landlords had sought to evict the tenants on multiple grounds: (1) an unreasonable number of occupants; (2) unreasonable damage to the property; and (3) giving false information. Order LD25-150 found that the Landlords had not established a valid basis for ending the tenancy. The Rental Officer found that the Landlords had not provided compelling evidence that the number of occupants in the Rental Unit breached the *Public Health Act Rental Accommodation Regulations*. With respect to the alleged damage to the property, Order LD25-150 concludes that the movement of furniture or personal property in a furnished unit does not establish unreasonable damage, nor did the state of cleanliness depicted in the Landlords’ photographs. Finally, Order LD25-150 found that clause 61(1)(j) of the *Residential Tenancy Act* did not apply because that section addresses a tenant giving false information to a prospective tenant or purchaser of the property, which did not apply in the circumstances.
6. The Landlords appealed Order LD25-150 to the Commission on May 5, 2025. On May 20, 2025, the Commission exercised its discretion to hold the Landlords’ appeal in abeyance pending the outcome of multiple additional applications filed with the Rental Office by both parties. This decision was made by the Commission in order to avoid the inefficiency of multiple appeal hearings, particularly where the Landlords’ appeal may have become moot as a result of the Rental Office matters. The Landlords’ appeal of Order LD25-150 was withdrawn on Friday, July 4, 2025.
7. The present matter is an appeal by the Tenants of Order LD25-215, issued by the Rental Office on June 17, 2023. That Order considered multiple eviction notices and additional applications filed by both parties. In particular:
 - (1) On May 2, 2025, the Tenants filed a Form 2(A) Tenant Application to Determine Dispute seeking a return of rent and compensation for breach of their right to quiet enjoyment;

(2) On May 5, 2025, the Landlords served the Tenants with four Form 4(A) Eviction Notices:

- (a) The first¹ and second notice² were with respect to non-payment of rent, disturbing and endangering others, causing damage to the Unit and breaching a material term of the tenancy agreement;
- (b) The third notice³ was for disturbing and endangering others, damage to the unit, and breaching a material term of the tenancy agreement;
- (c) The fourth notice⁴ was for non-payment of rent in the amount of \$2,900.00.

(these notices are collectively referred to herein as the “Eviction Notices”)

(3) On May 7, 2025, the Landlords filed a Form 2(B) Landlord Application to Determine Dispute seeking earlier termination of the tenancy agreement; and

(4) On May 15, 2025, the Tenants filed a second Form 2(A) Tenant Application to Determine Dispute disputing the Notices and seeking to set them aside.

- 8. Some of the details that lead to these multiple Eviction Notices and applications will be further addressed later in this Order.
- 9. On May 29, 2025, the Rental Office mailed and emailed the parties notice that the matters would proceed via a paper-based hearing on June 16, 2025. The parties were requested to provide evidence and submissions by Wednesday, June 11, 2025.
- 10. On June 17, 2025, the Rental Office issued two orders: Order LD25-215 and Order LD25-216.
- 11. Order LD25-215, the subject of the appeal before the Commission, found that the Eviction Notices were valid with regard to non-payment of rent and denied the Tenants’ Application to set aside the Eviction Notices. Order LD25-215 ordered the tenancy terminated effective June 24, 2025, at 5:00 p.m. The Order declined to make a finding on the Landlords’ other reasons in the Eviction Notices for ending the tenancy agreement.
- 12. Order LD25-216 denied the Tenants’ application seeking a return of rent and additional compensation for breach of the tenancy agreement. That Order also dismissed the Landlords’ application seeking earlier termination of the tenancy agreement.
- 13. On June 19, 2025, the Tenants filed a Notice of Appeal with the Commission of Oder LD25-215.
- 14. For clarity, the only appeal before the Commission is with respect to Order LD25-215, which made a finding only in respect of the Tenants’ non-payment of rent and eviction. Order LD25-216 was not appealed to the Commission by either party.

¹ Commission Exhibit Book, Tab E-10, pg. 28

² Commission Exhibit Book, Tab E-11, pg. 29

³ Commission Exhibit Book, Tab E-12, pg. 30

⁴ Commission Exhibit Book, Tab E-13, pg. 31

15. On July 4, 2025, the Commission issued Order LR25-28 - Direction Regarding Procedure ordering that this appeal would proceed by way of a paper-based hearing. The circumstances that lead to the Commission's Direction Regarding Procedure are outlined in detail in that Order and included the nature of the matter, the challenges with scheduling an in-person appeal in a timely and efficient manner, and an attempt to fairly balance the rights and interests of both parties.
16. In accordance with the direction and timelines set out by the Commission in Order LR25-28, each party made further submissions. The Tenant provided submissions on July 9, 2025. The Landlords, via their legal counsel, provided additional evidence and submissions on July 10, 2025. The Tenant then had an opportunity to reply by 12:00 p.m. on July 11, 2025.

C. DISPOSITION

17. The Commission denies the appeal and confirms the findings of the Rental Office in Order LD25-215. The tenancy between the parties is terminated effective Tuesday, July 15, 2025, at 5:00 p.m.
18. Further, the Commission orders that the Tenants' pay outstanding rent to the Landlords for May 2025, June 2025, and July 2025 (pro-rated to July 15) of \$7,203.23 (to be offset against the \$2,000 security deposit, plus \$21.64 in interest, held by the Landlords).
19. The *Residential Tenancy Act*, at subsection 19(1), requires tenants to pay rent when it is due, whether or not the landlord complies with the Act, the Regulations or the tenancy agreement.

D. ISSUES

20. On this appeal, the Commission is tasked with considering whether the Rental Office erred in finding that the tenancy agreement between the parties should be terminated on the basis of non-payment of rent.
21. The Commission will also consider the amount of outstanding rent, if any.

E. SUMMARY OF EVIDENCE

22. The evidence before the Commission consisted of 159 exhibits, totalling 834 pages and includes twelve (12) videos.
23. Much of the evidence before the Commission was submitted by the parties in the course of the proceedings that took place before the Rental Office. That evidence was then provided to the Commission for review on this appeal. This evidence is included in an Exhibit Book that was shared with the parties via an electronic file sharing platform on Friday, July 4, 2025.
24. Via letter to the parties on June 27, 2025, the Commission invited the parties to submit additional evidence by Wednesday, July 2, 2025. That deadline was extended for each party in the Direction Regarding Procedure.
25. The evidence in the Exhibit Book primarily speaks to the condition of the Rental Unit and the parties' interactions with one another.

26. The evidence received from the parties further to the Direction Regarding Procedure includes a written submission by the Tenants and fifty (50) photographs depicting the condition of the property as of July 11, 2025. The Landlords each submitted an affidavit along with written legal submissions from their legal counsel.
27. Given the volume of evidence in this matter, we do not intend to summarize it all in detail. The relevant evidence will be addressed in the analysis that follows; however, we do wish to make a few general comments about the evidence before us.
28. First, the evidence includes many screenshots of messages between the parties both before and after the Tenants moved into the Rental Unit. Of particular note to us is a message from the Landlords to the Tenants on the morning of February 3, 2025.⁵ The Landlords write to the Tenants indicating that they contacted the Tenants' reference and what they heard was "quite concerning". They explain to the Tenants that they were told the Tenants were evicted due to the uncleanness of the rental unit. The Tenants explained their side of the story to the Landlords, and the next messages in the thread appear to be after the Tenants took possession of the Rental Unit.
29. Next, we take note of a text exchange between one Landlord and one Tenant that appears to be dated February 10th – a week after the Tenants moved in.⁶ The Landlord indicates being at the property and his concerns about a man and small children also living in the Rental Unit. He also raises issues about the state of the Rental Unit by his own "cleaning standard". The Landlord says: "We will be inspecting the home and guest house in 48 hours. If it is not clean an eviction notice will be issued promptly." He goes on to say: "Unfortunately if the property is not respected and cared for you will be evicted and damages will be sought should there be any." This demonstrates to the Commission that the issues between the parties started almost immediately upon the Tenants moving in.
30. Third, the Tenant submitted photographs of the Rental Unit dated the same date as this Order, July 11, 2025. While we are not asked to consider a claim for damages or cleaning in this Order, on the Commission's review, we wish to note that there is a distinction between *damage* and *tidiness*.
31. Finally, the Tenant also submitted evidence of the treatment she has received from third parties as a result of the attention this matter has received via social media and news media. For example, the Tenant made a submission that at least one individual showed up to the Rental Property with a large piece of wood and threatened her and her family if they did not vacate. She also submitted a screenshot from social media of a message received from a third party that states: "You should be charged and kicked the [expletive] out NOW". The Commission accepts the submission of the Tenant that this negative attention and harassment from third parties has not helped her efforts to vacate the Rental Unit.

⁵ Commission Exhibit Book, Tab E-118, pg. 528.

⁶ Commission Exhibit Book, Tab E-116, pgs. 494-496.

F. ANALYSIS

32. As a preliminary comment to the analysis that follows, we want to make clear the Commission's jurisdiction and role in adjudicating appeals pursuant to the *Residential Tenancy Act*.
33. The *Residential Tenancy Act* is legislation developed by Government policy-makers and passed by the Legislative Assembly of Prince Edward Island. Both the Commission and the Rental Office are administrative bodies created by statute and authorized by the RTA to carry out certain functions. Therefore, when the Rental Office and then the Commission are asked to decide an application or appeal, that decision must be made in accordance with the provisions of the legislation approved by the law-makers of the province. The Commission, as an administrative tribunal, has neither the authority nor discretion to change the Act or suspend its application to certain parties on the basis of extenuating circumstances. In other words, the Commission must work within the scheme established under the Act when adjudicating a rental appeal. With that in mind, the Commission makes the following findings.

A. TERMINATION OF TENANCY FOR NON-PAYMENT OF RENT

34. The matter before us is an appeal by the Tenants of Order LD25-215, issued by the Rental Office on June 17, 2023. That Order considered multiple Eviction Notices and additional applications filed by both parties.
35. Ultimately, in Order LD25-215, the Rental Officer determined the notices were valid with regard to non-payment of rent and denied the Tenants' Application to set aside the Eviction Notices. Order LD25-215 ordered the tenancy terminated effective June 24, 2025, at 5:00 p.m. The Order declined to make a finding on the Landlords' other reasons in the Notices for ending the tenancy agreement.
36. For the reasons that follow, the Commission makes a similar finding on appeal.
37. The Tenants' Notice of Appeal states the following as reasons for the appeal and the relief sought:

Reasons:

1. *7 days is not enough time.*
2. *It is hard finding a rental open to large families.*

Relief sought: *More time.*

38. The Tenants' grounds of appeal do not articulate that she was appealing the eviction itself and, instead, ask for more time to move. However, as we have said before, the termination of a tenancy is a serious matter and, accordingly, the Commission generously interpreted the Notice of Appeal to be an appeal of the termination of the tenancy agreement and heard the appeal on its merits.
39. The evidence before the Commission is undisputed that the Tenants have not paid rent since April 2025. The Tenants say that they withheld rent because of the Landlord's behaviour they characterize as harassment which breached their quiet enjoyment of the Rental Unit.⁷

⁷ Commission Exhibit Book, Tab E-4, pgs. 14-18; Tab E-63, pgs. 273-274; and Tab E-65, pgs. 277-280.

40. The Landlords both submitted affidavits that state the Tenants have not paid rent for May 2025, June 2025 or July 2025.
41. The Commission accepts the evidence of the Tenants that they were genuinely distressed by the behaviour of the Landlords. It is clear to us on a review of the record that by April, the Landlords had no intention of continuing the tenancy with the Tenants, regardless of whether they paid rent. Nevertheless, the *Residential Tenancy Act* is clear at subsection 19(1) that tenants are required to pay rent when it is due, *whether or not the landlord complies with the Act, the Regulations or the tenancy agreement*. There is no express right under the Act that authorizes the Tenants to deduct or withhold rent that is applicable in this case.
42. In other words, the Tenants were obligated under the legislation and the tenancy agreement to pay rent as specified in the agreement, despite their allegations that the landlords had breached their quiet enjoyment.
43. Section 60 of the *Residential Tenancy Act* permits a landlord to end a tenancy if rent is unpaid after the day it is due by giving notice in accordance with the *Act*.
44. In this case, the written tenancy agreement between the parties required rent to be paid on the 3rd day of the month.⁸ The Eviction Notices were delivered to the Tenants on May 5, 2025.
45. The Commission is satisfied that the undisputed evidence of the parties establishes that on the date the Landlord delivered the Eviction Notices, the Tenants had not paid rent for May 2025. The *Residential Tenancy Act* specifically gives tenants 10 days to pay overdue rent after receiving an eviction notice (section 60(4)(a)). In this case, the Commission is satisfied that the Landlords have established that May's rent was unpaid the date it was due, and not paid within 10 days of the Eviction Notices. Therefore, the Landlord's termination of the tenancy agreement on this ground is valid.
46. Similar to the Rental Officer in LD25-215, we make no finding with respect to the merits of the Landlords' claims respecting eviction on the basis of damage to property, for example.

B. OUTSTANDING RENT OWING

47. Given the findings above that the Tenants have not paid rent since May 2025, the Commission also finds the Tenants owe the Landlords outstanding rent for May 2025, June 2025, and July 2025 (pro-rated to July 15) as follows:

May 2025	=	\$2,900.00
June 2025	=	\$2,900.00
July 2025 (pro-rated to July 15)	=	<u>\$1,403.23⁹</u>
Total	=	\$7,203.23

⁸ Commission Exhibit Book, Tab E-110, pgs. 458-466.

⁹ (\$2,900 ÷ 31 = \$93.55/day) x 15 days = \$1,403.23

48. The Landlords received a \$2,000.00 damage deposit from the Tenants at the time they moved into the Rental Unit.¹⁰ The security deposit has accrued interest in the amount of \$21.64 from the start of the tenancy to the date of this Order. Therefore, the amount of \$2,021.64 is to be offset against the outstanding rent owing.

49. In conclusion, the Tenants owe the Landlords outstanding rent in the amount of: **\$5,181.59**.

C. COSTS

50. The Landlords requested their costs in this matter. The Commission is authorized to award costs to a successful party per clause 85(1)(q) of the *Residential Tenancy Act*. The Commission has previously said in Order LR24-43 that this authority is discretionary and exercised in exceptional circumstances.

51. In the present case, it is clear to us that the relationship between the parties broke down almost immediately upon the Tenants moving into the Rental Unit. The evidence before the Commission is distressing with respect to the behaviour of both the Landlords and the Tenants as well as the interactions between the parties over the last five months. On our assessment, both parties to this proceeding share responsibility for the circumstances being what they are.

52. For these reasons, the Commission declines to award costs to the Landlords, despite that they are the successful party.

G. CONCLUSION

53. The Commission denies the appeal. The tenancy between the parties is terminated effective Tuesday, July 15, 2025, at 5:00 p.m.

54. The Tenants owe the Landlords outstanding rent in the amount of \$5,181.59.

55. The Tenants are reminded that when they vacate the Rental Unit, they are to be mindful of their obligations pursuant to subsections 28(3), (4) and (5) of the *Residential Tenancy Act* with respect to ordinary cleanliness and the repair of undue damage.

¹⁰ Exhibit Book, Tab E-110, pg. 459.

IT IS ORDERED THAT

1. The appeal is denied.
2. The tenancy between the parties is terminated effective Tuesday, July 15, 2025, at 5:00 p.m.
3. The Tenants and all occupants shall vacate the Rental Unit and remove all personal property by Tuesday, July 15, 2025, at 5:00 p.m.
4. The Tenants shall pay the Landlords outstanding rent in the amount of \$5,181.59 by Tuesday, July 15, 2025, at 5:00 p.m.

DATED at Charlottetown, Prince Edward Island, 11th day of July, 2025.

BY THE COMMISSION:

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

Pamela J. Williams, K.C., Chair

[sgd. Gordon MacFarlane]

Gordon MacFarlane, 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.