



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

**Date Issued:** July 31, 2025

**Dockets:** LR25017

**Type:** Rental Appeal

INDEXED AS: Jiayi “Diana” Dai v. Logen Moonesawmy

2025 PEIRAC 34 (CanLII)

Order No: LR25-33

**BETWEEN:**

Jiayi “Diana” Dai (the “Landlord”)

**Appellant**

**AND:**

Logen Moonesawmy (the “Tenant”)

**Respondent**

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## ORDER

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Panel Members:

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

Compared and Certified a True Copy

(Sgd.) Jessica Gillis

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General Counsel

Island Regulatory and Appeals Commission

## A. INTRODUCTION

1. This appeal was heard by the Commission on April 29, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Landlord will pay the Tenant \$1,981.46 by May 12, 2025.

## B. BACKGROUND

2. This appeal concerns a rental unit consisting of a single bedroom plus shared bathroom and kitchen facilities (the “Rental Unit”) in a four-bedroom and three-bathroom single-family dwelling located at 9 Carr Court, Charlottetown, PEI.
3. On December 21, 2021 the parties entered into an oral tenancy agreement for the Rental Unit. The Tenant paid a \$600.00 security deposit.
4. In January 2022 the Tenant paid rent in the amount of \$600.00, which was due on the first day of the month.
5. In February 2022 the Tenant moved into the Rental Unit.
6. On December 4, 2022 the parties signed a written, fixed-term tenancy agreement for the period of January 1, 2023 to December 31, 2023. Rent increased to \$650.00 due on the first day of the month.
7. From May to August 2023 the Tenant vacated the Rental Unit and left Canada. The Landlord used the Rental Unit for Airbnb rentals during this period.
8. In September, 2023 the Tenant returned to the Rental Unit and the rent increased to \$750.00.
9. On January 1, 2024 the fixed-term expired and the tenancy continued on a month-to-month basis.
10. On April 30, 2024 the Tenant vacated the Rental Unit and left Canada until September 8, 2024. The Landlord used the Rental Unit for Airbnb rentals during this period.
11. On September 8, 2024 the Tenant returned to the Rental Unit and the rent increased to \$800.00.
12. On September 10, 2024 the Tenant vacated the Rental Unit.
13. On October 25, 2024 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Residential Tenancy Office (the “Rental Office”) seeking a return of the security deposit, including interest and double the security deposit. On November 18, 2024 the Tenant amended this application to include a monetary order against the Landlord for an unlawful rent increase (the “Tenant Application”).

14. On January 8, 2025, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office seeking to retain the Tenant's security deposit and additional compensation exceeding the Tenant's security deposit. On January 10, 2025, the Landlord amended the application to include a monetary order against the Tenant for rent owed (the "Landlord Application").
15. On January 31, 2025, the Rental Office held a teleconference hearing. On March 12, 2025, the Rental Office issued Order LD25-090 which allowed the Tenant Application for an unlawful rent increase and return of the security deposit and denied the Landlord's Application. Order LD25-090 ordered that the Landlord to pay the Tenant \$1,981.46 by May 12, 2025.
16. The Landlord appealed Order LD25-090 on March 28, 2025.
17. The Commission heard the appeal on April 29, 2025, by way of telephone conference. The Landlord and Tenant both appeared at the hearing. Liz Lam, a professional independent translator hired by the Commission, attended to translate for the Landlord.
18. As will be discussed further below, the applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the "*Act*").

## **C. DISPOSITION**

19. The appeal is dismissed. Order LD25-090 is confirmed, subject to an increase in the interest award on the security deposit.

## **D. ISSUES**

20. There are three issues for the Commission to consider in this matter:

Issue A - Was there an unlawful increase in rent?

Issue B – Must the Landlord pay double the security deposit pursuant to subsection 40(4) of the *Act*?

Issue C - Is the Landlord entitled to compensation?

## **E. SUMMARY OF EVIDENCE**

21. The Landlord testified that she appealed because she believed that she had a verbal agreement with the Tenant whereby he was not required to pay rent during the summer when he was not living in the Rental Unit but rent could be increased when he returned. The Landlord testified that she did not do anything wrong because she raised rent based on a verbal agreement between the parties. The Landlord acknowledged that she did rent out the Rental Unit by Airbnb during the months of July and August as the Tenant did not pay rent for those months. The Landlord testified that the Tenant was aware that the Rental Unit was rented out through Airbnb when he was away. The Landlord stated that to be fair the Tenant should have paid rent for the Rental Unit during the months he was away.

22. The Tenant testified that the Landlord had texted her that she had to raise the rent. He testified that he did not willingly agree to the increase. He testified that the Landlord then suggested he look for another place to rent. He testified he did not wish to do this so he was forced to pay the increased rent. He also testified that the bed he had for the last time he stayed there was different and smaller than the bed he had for the first time. The money the Landlord sought for cleaning was in relation to the first bed.

## **F. ANALYSIS**

23. The Commission dismisses the appeal. The Commission finds that the rental increase was unlawful as the increase was not permitted under the Act. The Commission also finds that the Landlord is not owed compensation as claimed in the Landlord Application and that a double security deposit must be returned as the Landlord failed to meet the requirements set out in section 40 of the Act. The Commission's reasons follow.

### **Issue A - Was there an unlawful increase in rent?**

24. As a preliminary comment, the Commission notes that the alleged unlawful rent increases claimed by the Tenant span back to January 2023, prior to the coming into force of the *Residential Tenancy Act*. Nevertheless, the Commission accepts that the *Residential Tenancy Act* applies to this matter, pursuant to subsection 112(2) of the *Residential Tenancy Act*.<sup>1</sup>

25. In this case, the Landlord maintains that she raised the rent after reaching a verbal agreement with the Tenant and therefore her rental increase was lawful. The Tenant countered that he did not willingly agree to the increase but only agreed to it reluctantly.

26. However, section 49 of the Act reads:

#### *49. Allowable annual rent increase*

*(1) No landlord shall increase the rent charged for a rental unit by more than the allowable annual increase, except in accordance with section 50.*

27. The allowable rental increase is determined each year by the Rental Office after consultation with landlords and tenants but in no case shall exceed 3 percent. At least three months' written notice is required. Section 50 permits a further increase, but requires an application to the Rental Office and such increase may be refused, granted in part, granted in full or phased in over time. Such further increase shall not exceed 3 percent.

28. As outlined in the background section, the rent history for the Rental Unit is as follows:

\$600.00 per month for all of 2022;

\$650.00 per month for the first 4 months of 2023;

\$750.00 per month for September 2023 to April 2024; and

\$800.00 for September 2024.

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<sup>1</sup> See, for example, Order LR25-32, at paras 21-24.

29. These rent increases all exceeded the allowable rental increase of 1% for 2022, 0% for 2023 and 3% for 2024.
30. With respect to the evidence that the Tenant agreed to the increases, the Commission notes that section 5 of the *Residential Tenancy Act* states that any waiver or release by a tenant of the rights, benefits or protections under the Act is void and of no effect.
31. Accordingly, the Commission finds that the three rental increases imposed by the Landlord were all unlawful rent increases and must be refunded to the Tenant. The Landlord, therefore, owes the Tenant \$1,600.00, calculated as follows:

Jan to April 2023 -	\$50.00 x 4 months =	\$200.00
Sept to Dec 2024 -	\$150.00 x 4 months =	\$600.00
Jan to April 2024 -	\$150.00 x 4 months =	\$600.00
Sept 2024 -	\$200.00 x 1 month =	<u>\$200.00</u>
		<b>\$1,600.00</b>

32. The Landlord attempts to claim hardship by stating that it was not fair for the Tenant to not have to pay rent while he was away in the summer. The Commission finds that the *Act* does not make an exception to rental increase requirements for such a situation and, in any event, the Tenant did not have possession of the Rental Unit during those months as the Landlord was renting the Rental Unit out to other persons through Airbnb during that period.

**Issue B – Must the Landlord pay double the security deposit pursuant to subsection 40(4) of the *Act*?**

33. In regards to the matter of the double security deposit awarded in Order LD25-090; the Commission is not satisfied that the Rental Office erred in any way in its determination of this matter.
34. In particular, the Commission accepts that the tenancy between the parties ended, *at the latest*, on October 31, 2024. The Landlord's Application was not filed with the Rental Office until January 8, 2025. This far exceeds the 15-day timeline imposed by section 40 of the *Act*.
35. As considered in Commission appeal Order LR25-17 *Xianfeng Yue and Ying Zhao v. Steve Dyer* (see especially paragraphs 18 to 21), section 40 of the *Act* requires the return of the security deposit within 15 days subject to specific exceptions and if a landlord fails to follow those requirements the penalty of a double deposit award is imposed under subsection 40(4). Neither the Rental Office nor the Commission on appeal has been given any discretion to allow for forgiveness of a landlord's section 40 non-compliance.
36. Accordingly, the Commission agrees with Order LD25-090 that the Landlord must pay the Tenant double the security deposit, including interest accrued to the date of this Order.

### **Issue C – Is the Landlord entitled to compensation?**

- 37. The Landlord Application claimed outstanding rent and compensation for cleaning the bed in the Rental Unit.
- 38. The Commission agrees with the findings in Order LD25-090 that the Tenant owes rent for October 2024 in the amount of \$600.00 due to insufficient notice prior to vacating the Unit.
- 39. Further, we agree with the Rental Officer's findings that the condition of the bed at the end of the tenancy was below the standard of reasonably clean. We agree the Landlord's claim should be allowed in the amount of \$250.00.

### **Conclusion**

- 40. In conclusion, the Commission confirms Order LD25-090.
- 41. The Tenant is owed \$1,600.00 for a return of rent claim based on unlawful rental increases.
- 42. The Tenant's double security deposit award is \$1,200.00 plus interest for the period December 21, 2021 to the date of this Order, earned on the original \$600.00 security deposit, in the amount of \$37.26.
- 43. The Landlord is owed \$600.00 rent for October 2024 in lieu of notice plus an award of \$250.00 for cleaning the bed.
- 44. The net amount the Landlord must pay the Tenant is: \$1,987.26.
- 45. The Landlord is reminded that the lawful rent for the Rental Unit is \$600.00, unless and until the rent is increased lawfully in accordance with the *Residential Tenancy Act*.

### **G. CONCLUSION**

- 46. The appeal is dismissed. Order LD25-090 is confirmed. The Landlord shall pay the Tenant \$1,987.26.

## IT IS ORDERED THAT

1. The appeal is dismissed and Order LD25-090 is confirmed.
2. The Landlord must pay the Tenant the sum of \$1,987.26.
3. The sum of \$1,987.26 must be paid within 30 days of this present Order.
4. The Landlord will not charge a monthly rent greater than \$600.00 for the Rental Unit until the Landlord increases the rent in accordance with the *Residential Tenancy Act*.

**DATED** at Charlottetown, Prince Edward Island, 31<sup>st</sup> 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.