



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: July 29, 2025

Dockets: LR25029

Type: Rental Appeal

INDEXED AS: Hoai Nam Nguyen v. Samson Olaide Araba

2025 PEIRAC 36 (CanLII)

Order No: LR25-35

BETWEEN:

Hoai Nam Nguyen (the “Landlord”)

Appellant

AND:

Samson Olaide Araba (the “Tenant”)

Respondent

ORDER

Panel Members:

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

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 June 24, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Tenant did not have to compensate the Landlord for damage or cleaning.

B. BACKGROUND

2. This appeal concerns a rental unit located at 86 Maypoint Road, Charlottetown, PEI (the “Rental Unit”). The Rental Unit is a bedroom with shared common facilities in a house that the Landlord owns (the “Residential Property”).
3. The parties entered into a written fixed-term tenancy agreement for the Rental Unit from September 1, 2024, to August 31, 2025. A security deposit of \$650.00 was required, but only \$250.00 was paid on September 2, 2024. The rent was \$650.00, due on the first day of the month.
4. The Tenant moved out of the Unit on January 29, 2025, and the tenancy ended by mutual agreement.
5. On February 4, 2025, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Landlord Application”) with the Residential Tenancy Office (the “Rental Office”) seeking to keep the security deposit, additional compensation of \$137.34 for damage and cleaning, and to have the Tenant remove his vehicle from the Residential Property. The Landlord also requested additional compensation of \$390.00 for storing the Tenant’s vehicle at the Residential Property.
6. On February 21, 2025, the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the “Tenant Application”) with the Rental Office, seeking a return of the security deposit.
7. On March 6, 2025, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for April 10, 2025.
8. On April 4, 2025, the Rental Office emailed a 41-page PDF (the “Evidence Package”) to the parties.
9. On April 10, 2025, the Landlord and the Tenant participated in a teleconference hearing before a Residential Tenancy Officer. Both parties stated they received a copy of the Evidence Package and that all submitted evidence was included.
10. On May 8, 2025, the Rental Office issued Order LD25-163 which ordered that the Landlord will keep the Tenant’s security deposit, including interest, totalling \$254.05.
11. The Landlord appealed Order LD25-163 on May 27, 2025.
12. The Commission heard the appeal on June 24, 2025, by way of telephone conference. The Landlord, Hoai Nam Nguyen along with a witness for the Landlord, Nam Anh Nguyen, attended the telephone hearing. The Tenant did not attend the telephone hearing.

13. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the “Act”).

C. DISPOSITION

14. The appeal is allowed based on new evidence and the Commission accepts the Landlord’s claim for the costs associated with a damaged headboard and cleaning.

D. ISSUES

15. Does the evidence support the Landlord’s claim for damages?

E. SUMMARY OF EVIDENCE

16. The Landlord seeks to claim \$387.34 for damaged items, disposal and cleaning in addition to the \$254.05 for storage of the Tenant’s vehicle awarded by the Rental Office in Order LD25-163. The claim for \$387.34 is based on the following:

- Replacement of headboard \$272.54
- Disposal of damaged headboard \$50.00
- Cleaning of Rental Unit \$25.00
- Replacement of sheets \$39.80

17. The Landlord provided photographs (Exhibit A-2, pages 94-95 of the Commission file record) showing the condition of the headboard and sheets prior to the beginning of the Tenancy. The Landlord testified that the witness Nam Anh Nguyen, another tenant, had sent these pictures to the Tenant shortly before the Tenant had moved in.

18. The witness testified that the Landlord had asked him to refer interested potential tenants to the Landlord. The witness testified that he took pictures of the room in August 2024 before the Tenant had moved in and had sent these pictures to the Tenant.

F. ANALYSIS

19. On appeal, the Landlord has provided the Commission with new evidence in order to pursue his claim.

20. In Order LD25-163 the residential tenancy officer (the “Officer”) stated in paragraph [20]:

[20] In this case, I have limited evidence regarding the baseline condition of the Unit at the beginning of the tenancy. I note that the Landlord has the burden of proof to establish his claims. I find that the Landlord has not established, on a balance of probabilities, that the Tenant damaged the headboard or sheets or left the Unit in a worse state of cleanliness than when he moved in. The Landlord’s claims for damage and cleaning are denied.

21. Subsection 89(8) of the Act reads:

Procedure on appeal

89(8) An appeal to the Commission shall be by way of a re-hearing, and the Commission may receive and accept any evidence and information on oath or affidavit as the Commission in its discretion considers fit and make any decision or order that the Director is authorized to make under this Act.

22. The Commission finds that the Officer did not have the benefit of the photographs that formed Commission Exhibit A-2. On appeal, the Commission does have the benefit of Exhibit A-2 and is able to consider this new evidence under subsection 89(8) of the Act. Exhibit A-2 shows the headboard and the bed sheets in clean condition. The Commission also has the benefit of the testimony of the Landlord's witness. The Landlord's witness testified that he took the photographs which form Exhibit A-2 and sent them to the Tenant in August 2024 prior to the start of the tenancy on September 1, 2024.
23. Based on Exhibit A-2 and the testimony of the Landlord's witness, the Commission finds that, on the balance of probabilities, the headboard and sheets were clean shortly before the beginning of the tenancy and we are satisfied that it is more likely than not that the Tenant caused the damage to these items during the tenancy.
24. The Commission therefore allows the appeal and awards a claim for the cost of a new headboard, disposal of the old headboard and cleaning of the Rental Unit in the amount of \$347.54. The Commission declines to make an award of \$39.80 for new sheets as there is no evidence that the Landlord attempted to wash the sheets to restore their condition and there is a reasonable expectation that a new tenant would have new sheets provided in any event.

G. CONCLUSION

25. The appeal is allowed based on new evidence. The Commission awards the sum of \$347.54 to the Landlord for the cost of a new headboard, disposal of the old headboard and cleaning of the Rental Unit.

IT IS ORDERED THAT

- 1. The appeal is allowed and Order LD25-163 is varied.**
- 2. As previously ordered in Order LD25-163, the Landlord shall retain the security deposit of \$250.00 together with \$4.05 interest, for a total amount of \$254.05, for the storage of the Tenant's vehicle for 78 days on the Landlord's property.**
- 3. In addition to the retention of the security deposit together with interest, the Commission orders the Tenant to pay the Landlord the sum of \$347.54 for the cost of a new headboard, disposal of the old headboard and cleaning the Rental Unit.**

4. The sum of \$347.54 must be paid by the Tenant to the Landlord within 30 days of this Commission order.

DATED at Charlottetown, Prince Edward Island, 29th day of July, 2025.

BY THE COMMISSION:

(sgd. Pamela J. Williams)

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.