



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: December 12, 2025

Dockets: LR25048

Type: Rental Appeal

INDEXED AS: Eugene Farnden, Kristy Farnden and Hailee Farnden v.

Cecilia Oliveira and Kelly Gehl

2025 PEIRAC 65 (CanLII)

Order No: LR25-57

BETWEEN:

Eugene Farnden, Kristy Farnden and Hailee Farnden (the "Former Landlords")

Appellant

AND:

Cecilia Oliveira (the "Tenant")

Respondent

Kelly Gehl (the "Purchaser")

Respondent

ORDER

Panel Members:

Kerri Carpenter, Vice 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 September 23, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Former Landlords must pay the Tenant compensation pursuant to section 72 of the Act, namely one month’s rent and reasonable moving expenses in the total amount of \$1,675.49.

B. BACKGROUND

2. This appeal concerns a rental unit located at 12 Holland Drive, Stratford, PEI, purchased by the Former Landlords about five years ago (the “Residential Property”). The rental unit is a one-bedroom, one-bathroom unit located in the basement of the Residential Property (the “Rental Unit”).
3. The Former Landlords and the Tenant entered into a written, fixed-term tenancy agreement for the Rental Unit from September 27, 2024, to April 27, 2025 (the “Tenancy Agreement”). The Tenant paid a \$700.00 security deposit to the Former Landlords on June 10, 2024. Rent in the amount of \$1,400.00 was due on the first day of the month.
4. On February 16, 2025 the Former Landlords sent a text message to the Tenant stating that they had accepted an offer to sell the Residential Property, pending a home inspection. The text message stated the Tenant would likely need to move out of the Rental Unit by March 23, 2025. The message states in full:

Hi, Cecilia

We wanted to let you know we have accepted an offer on our house, it's pending a house inspection which will take place March 1st so the inspector will be through that day. If all goes well with the inspection the new owner will take over March 25th. Unfortunately that means you will have to be moved out by March 23rd.

So because of the inconvenience and shortening of your lease we will only charge you a half month's rent for March. As soon as we find out about the inspection I will let you know.

Sorry for the inconvenience and if I find out any additional information I will reach out.

5. On February 19, 2025, the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office against the Former Landlords disputing that the February 16, 2025, text message was a valid eviction notice.
6. On February 24, 2025, the Former Landlords emailed the Tenant to apologize for the confusion and advise that the text message was not an eviction notice, but rather an update on the sale of the Residential Property. The email goes on to explain the Former Landlords understand the *Act* requires a two-month notice, and the sale contract would have to be adjusted. In that same email, the Former Landlord said:

Your lease is set to end on April 15th. Could you please confirm whether you are planning to move out at that time or were you are [sic] interested in renewing your lease for an additional term?

If the inspection on February 26th proceeds as expected and the sale moves forward, I will provide you with a formal eviction notice, as the new owner intends to use the entire house for personal use.

Please let me know how you would like to proceed.

7. On February 25, 2025 the Tenant responded to the Former Landlords' email advising, in part:

As well as my lease is set to end on April 27th which is when I plan to move out, since I haven't received an eviction notice that date would be 2 months from now.

8. On February 28, 2025 the Former Landlords served the Tenant a *Form 4(B) Eviction Notice* with a vacate date of April 28, 2025, for the reason that a buyer wanted possession of the Rental Unit (the "Notice"). The Notice did not include an affidavit as required by subsection 63(3) of the *Act*.
9. On March 4, 2025 the Tenant withdrew the application against the Former Landlords that disputed the February 16, 2025, text message.
10. On March 25, 2025, the Purchaser took possession of the Residential Property.
11. On April 26, 2025, the Tenant moved out of the Rental Unit.
12. On May 20, 2025, the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office claiming one month rent and reasonable moving expenses pursuant to section 72 of the *Act* against the Former Landlords and the Purchaser (the "Application").
13. The Tenant's Application was head by the Rental Office on August 5, 2025.
14. On August 7, 2025, the Rental Office issued Order LD25-286 ordering the Former Landlords to pay the Tenant one month's rent and moving expenses in the total amount of \$1,675.49 by September 8, 2025.
15. The Former Landlords appealed Order LD25-286 to the Commission on August 27, 2025.
16. The Commission heard the appeal on September 23, 2025, by way of telephone conference. The Former Landlords were represented by Kristy Farnden (Farnden). The Tenant, Cecelia Oliveira, attended on her own behalf. The Purchaser, Kelly Gehl, attended on her own behalf.

C. DISPOSITION

17. The appeal is allowed and Order LD25-286 is reversed, in part, as it relates to the section 72 compensation.

D. ISSUES

18. The issue for the Commission to consider on this appeal is whether the Former Landlords owe the Tenant compensation for one month's rent and reasonable moving expenses pursuant to section 72 of the *Act*. In assessing this issue, the Commission must determine whether the Tenant's tenancy was terminated pursuant to section 63 of the *Act* (where a purchaser personally requires the rental unit).

E. SUMMARY OF EVIDENCE

19. At the appeal hearing, Farnden testified that the Former Landlords were not aware of the two-month notice period at the time they notified the Tenant by text message on February 16, 2025, that she may have to move out early due to the sale of the Residential Property. However, when they realized that they were not permitted to do this under the *Act*, they emailed the Tenant to apologize for the confusion and clarify her intentions. Farnden testified that she asked whether the Tenant planned to move out or whether she was intending to renew the Tenancy Agreement. Farnden testified that the Tenant responded in writing with her intention to move out at end of Tenancy Agreement. Farnden further testified, however, that had the Tenant expressed her desire to renew the Tenancy Agreement, she agreed compensation would have been owed. She testified to her understanding that the Eviction Notice was served on February 28, 2025, because of the terms of the sale agreement with the Purchaser.
20. Farnden submitted that the tenancy ended because the Tenant gave notice on February 25, 2025 that she intended to move out at the end of the fixed term tenancy. She testified that it was her understanding the Tenancy Agreement was initially set to end on April 27, 2025, because the Tenant planned to move following her completion of school.
21. With respect to the security deposit, Farnden testified that the security deposit was paid over to the Purchaser.
22. The Tenant stated that she had originally planned to move out of the Rental Unit at the end of April 2025 unless she got a job on PEI, in which case she would have asked to stay longer. She testified that she had considered requesting to renew the Tenancy Agreement before receiving the text message on February 16, 2025, because she did not have a job. The Tenant testified that she did, in fact, move away from Prince Edward Island when she moved out of the Rental Unit on April 26, 2025.
23. With respect to her email dated February 25, 2025, the Tenant stated that she was not terminating the Tenancy Agreement, rather she stated that she planned to move out on April 27th when the Tenancy Agreement was set to end.

24. The Purchaser testified that she wanted vacant possession of the entire Residential Property, including the Rental Unit. After the sale of the Residential Property, the Purchaser allowed the Tenant to stay and indeed offered to let her stay longer; however, the Tenant indicated to her (via text message) that things worked out well and she was happy to be moving. The Purchaser testified that she returned the security deposit to the Tenant, include the security deposit interest as required by Order LD25-286.

F. ANALYSIS

25. In Order LD25-286 the Rental Office found that the Tenant had established a section 72 compensation claim against the Former Landlords. In particular, Order LD25-286 found that by serving the Eviction Notice, the Landlords gained a right to seek the end of the Tenancy Agreement, which existed independent of any other right to end the tenancy. As support for this finding, Order LD25-286 referred to and quoted from a decision of the Ontario Superior Court of Justice (Divisional Court) *Marineland of Canada Inc. v. Olsen*, 2011 ONSC 6522, which held that Ontario's legislation created an immediate legal obligation on the landlord to compensate a tenant once the landlord has given notice to terminate. The decision states:

It is clear that the purpose of the required payment is to compensate the tenant for the bother and expense of locating and moving into alternate premises. Therefore, the subsequent termination of the Olsens' tenancy for non-payment of rent did not release the landlord from its obligation to compensate them.

26. Order LD25-286 went on to find:

[23] Similarly, the Former Landlords' service of the Notice to the Tenant for the Purchaser Landlord's occupation of the Unit created an immediate legal obligation for the Former Landlords to pay the Tenant compensation in accordance with sections 72 and 73 of the Act.

[24] It does not matter whether or not the Tenant had pre-existing plans to move out of the Unit.

[25] By serving the Notice the Former Landlords gained a right to seek the end of the Tenancy Agreement through the Notice. This right existed independently from any other right to seek the end of the Tenancy Agreement.

[26] However, this right was accompanied by the obligation to pay compensation of one-month's rent and moving expenses to the Tenant under sections 72 and 73. The Former Landlords have not fulfilled these compensation obligations.

[27] I also note that this obligation to pay section 72 compensation to the Tenant was not transferred from the Former Landlords to the Purchaser Landlord.

[28] The obligation to pay section 72 moving expenses crystallized on February 28, 2025, the date that the Former Landlords served the Notice. I note that the February 16, 2025 text message could have also triggered responsibility for this compensation, however, this text message was essentially replaced by the Notice.

27. While the finding in Order LD25-286 may be reasonable in certain circumstances, the Commission finds the email exchange between the Former Landlord and Tenant on February 24 and 25th to be compelling in this case, such that we come to a different finding than the Residential Tenancy Officer in Order LD25-286.
28. As a preliminary comment, we are satisfied that the Former Landlord effectively withdrew the February 16, 2025, text message in the email to the Tenant dated February 24th. Subsequently, the Tenant withdrew her application to dispute the text message on February 19, 2025. Therefore, we are of the opinion that the February 16, 2025, text message by the Former Landlords is not a live issue before the Commission. Further, if this was a live issue before the Commission, the wording of the Former Landlords' text message clearly indicated that it may be possible that they would end the tenancy early. There was a clear condition, being the pending home inspection. There is no evidence of a subsequent confirmation that the condition was satisfied. We find it would be unreasonable to interpret the Former Landlords' message as an eviction notice given that there was a clear condition on it, relating to a third party needing to be satisfied regarding a home inspection of the Residential Property.
29. Returning to the text message exchange, as outlined above, on February 24, 2025, the Former Landlords emailed the Tenant to advise that the text message sent on February 16th was not an eviction notice, but rather an update on the sale of the Residential Property. The email goes on to explain the Former Landlords understand the Act requires a two-month notice, and the sale contract would have to be adjusted. In that same email, Farnden asked:

Your lease is set to end on April 15th. Could you please confirm whether you are planning to move out at that time or were you interested in renewing your lease for an additional term?

If the inspection on February 26th proceeds as expected and the sale moves forward, I will provide you with a formal eviction notice, as the new owner intends to use the entire house for personal use.

Please let me know how you would like to proceed.

30. The Tenant responded:

Yes the requirement would not have been met, due to your text and letter stating I would have to be out by March 23. Which would only have been one month's notice.

As well as my lease is set to end on April 27th which is when I plan to move out, since I haven't received an eviction notice that date would be 2 months from now.

31. In the opinion of the Commission, this email exchange amounted to the Tenant giving notice to end the fixed-term Tenancy Agreement in accordance with section 55(3) of the *Act*. Therefore, by the time the Landlord served the Eviction Notice on February 28th, the tenancy between the parties was already terminated.

32. The Tenancy Agreement (Exhibit E-7) identifies the following lease terms:

Term

7. The term of the lease commences September 27, 2024, and shall be revisited April 27, 2025.

33. The parties both testified to their understanding that the Tenancy Agreement was expected to end on April 27, 2025, but could be revisited.

34. The Commission is satisfied that the Tenant's email of February 25, 2025, stating that she planned to move out at the end of the tenancy agreement, being April 27, 2025, amounted to notice by the Tenant that she did not plan to request to extend the Tenancy beyond the end of the fixed-term. The Commission finds that the Former Landlords accepted the Tenant's notice and, thereafter, the Landlord was under no obligation to extend the Tenancy beyond April 27, 2025. The Commission finds that the email exchange constitutes an agreement between the parties that the Tenancy Agreement would continue for the full fixed-term but not be renewed.

35. The Former Landlord then, on February 28, 2025, served the Eviction Notice with a vacate date of April 28, 2025, being one day after the end of the agreed upon end of the Tenancy Agreement. The Commission finds that the Form 4(B) was unnecessary as the Tenant had already indicated the Tenancy Agreement would terminate at the end of the fixed term. After the Tenant gave notice, she no longer had the right to remain in the property beyond April 27, 2025, unless a new agreement was struck.

36. The Commission therefore concludes that the Tenancy ended by virtue of the Tenant giving notice under subsection 55(3).

37. Turning now to whether the Eviction Notice served by the Former Landlords on February 28th invokes liability on the part of the Former Landlords, as determined by Order LD25-286, the Commission notes that section 72 of the *Act* requires compensation to any tenant who receives "a notice of termination of tenancy under section 62 or 63". Order LD25-286 decision suggests that the compensation is owed regardless of any other factors.

38. First, we wish to clarify that while precedents from other jurisdictions can provide helpful guidance, those decisions are not binding on either the Rental Office or the Commission and we are free to take a different interpretation. In any event, we find the present case to be distinguishable from the Ontario Divisional Court decision referred to in Order LD25-286. In that case, the landlord had served a termination notice for conversion, and then later served a termination notice for non-payment of rent. While we agree the finding in that decision made sense in the circumstances, the present case is different – in particular where we have concluded the Tenant gave notice to end the Tenancy Agreement before the Former Landlords served the Eviction Notice.

39. With respect, the Commission finds that the compensation required by section 72 may not be an automatic liability of a landlord that is due in all circumstances. For example, an analysis should be done to determine whether the termination notice was even valid. On this point, the Commission notes that the Eviction Notice in the present case did not include the affidavit required under subsection 63(3).
40. Apart from the technical contents, or lack thereof, of the Landlord's Eviction Notice, in the Commission's opinion, the most significant factor for consideration in this case is the Tenant's February 25th email that she did not wish to extend the fixed-term tenancy and planned to move out on April 27th. As concluded above, we find this amounts to a notice of termination by the Tenant, which supersedes any subsequent notice by the Former Landlords. On February 28, being less than 2 months before the end of the Tenancy, The Former Landlords had could not terminate under section 73 sooner than the Tenant had given notice.
41. As a final comment, we do take note of the comment of the Ontario Divisional Court that the purpose of the required payment is to compensate a tenant for the bother and expense of locating and moving into alternate premises. In the present case, the Tenant had already expressed her intention to move out. In our opinion, this underscores our conclusion that section 72 compensation was not owed in the present circumstances.
42. Accordingly, the Commission allows the appeal and reverses the finding in Order LD25-286. The Former Landlords do not owe the Tenant section 72 compensation.
43. With respect to the finding that the Purchaser must pay the Tenant interest on the security deposit in the amount of \$19.32, the Commission confirms this finding made in Order LD25-286. The Commission notes that the parties advised that the Purchaser has paid this sum to the Tenant.

G. CONCLUSION

44. The appeal is allowed and the requirement to pay \$1,675.49 for section 72 compensation is reversed and therefore is no longer in effect.

IT IS ORDERED THAT

1. The appeal is allowed and the requirement set out in Order LD25-286 for the Former Landlords to pay the Tenant the sum of \$1,675.49 is reversed and is no longer in effect. For greater certainty, no such payment is required.
2. The requirement that the Purchaser Landlord pay the Tenant security deposit interest in the amount of \$19.32 is confirmed and it is confirmed that this payment has been received.

DATED at Charlottetown, Prince Edward Island, 12th day of December, 2025.

BY THE COMMISSION:

[sgd. Kerri Carpenter]

Kerri Carpenter, Vice 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.