



Date Issued: March 26, 2026
Dockets: LR26004
Type: Rental Appeal

INDEXED AS: Mitchell Kerr v. York River Properties Inc.
2026 PEIRAC 15 (CanLII)
Order No: LR26-10

BETWEEN:

Mitchell Kerr, aka Mitch Kerr and Mitch Schram (the "Tenant")

Appellant

AND:

York River Properties Inc. (the "Landlord")

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 March 5, 2026, and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in finding that the tenancy between the parties be terminated effective 5:00 pm on February 12, 2026, and that the Tenant must pay the Landlord the total amount of \$2,675.14 by March 6, 2026.

B. BACKGROUND

2. This appeal concerns a rental unit located at 6 - 11 Rockcliffe Avenue, Charlottetown, PEI (the "Rental Unit").
3. The Rental Unit is an apartment in a 12-unit building that the Landlord has owned for over 20 years.
4. The Landlord, the Tenant and another tenant entered into a written, fixed-term tenancy agreement from November 1, 2025 to October 31, 2026 (the "Tenancy Agreement"). On October 23, 2025 the Tenant paid a security deposit of \$482.00 and a partial payment of \$700.00 for November's rent. Rent in the amount of \$964.00 is due on the first day of the month. For a period of time there was an additional tenant ("WG").
5. On December 3, 2025 the Landlord served the Tenant and WG with a *Form 4(A) Eviction Notice* with an effective date of December 31, 2025 for non-payment of rent, in the amount of \$1,228.00.
6. On January 2, 2026 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Application") with the Rental Office seeking rent owing and electricity costs, which is determined in this decision. The Application also seeks vacant possession of the Unit and for the Sheriff to put the Landlord in possession, which is determined in Order LD26-052.
7. On January 20, 2026, the Rental Office sent the parties and WG notice of teleconference hearing scheduled for February 5, 2026.
8. On February 5, 2026 at 11:23 a.m., the Tenant emailed the Rental Office requesting an adjournment of the hearing. The Rental Office responded informing that the Tenant would need to join the teleconference hearing to request an adjournment. The Tenant was also informed that, if an adjournment was not approved, then the hearing would proceed as scheduled.
9. On February 5, 2026 the Landlord's representative (the "Representative") joined the teleconference hearing held before the Rental Officer. The Rental Officer telephoned the Tenant but did not receive a response and could not leave a voicemail message. The hearing then proceeded in the Tenant's absence.
10. On February 5, 2026, the Rental Office issued Order LD26-052, which terminated the tenancy effective February 12, 2026, and issued Order LD26-053 which ordered that the Tenant must pay the Landlord the total amount of \$2,675.14 by March 5, 2026.

11. The Tenant appealed Orders LD26-052 and LD26-053 on February 11, 2026.
12. The Commission heard the appeal on March 5, 2026, by way of telephone conference. The Tenant, Mitchell Kerr, attended the telephone hearing. The Landlord, York River Properties Inc. was represented by Spencer Campbell, K.C. at the telephone hearing.
13. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the "Act").

C. DISPOSITION

14. The Appeal is denied, and the decision of the Rental Office is upheld.
15. The Commission is satisfied that the tenancy between the parties shall terminate on the basis of nonpayment of rent effective March 31, 2026.
16. The Commission further finds that the Eviction Notice was valid and was properly served on the Tenant.

D. ISSUES

17. There are two related issues that the Commission must determine:
 - Should the tenancy between the parties terminate for the non-payment of rent?
 - What is the amount of rent and electricity costs owing to the Landlord by the Tenant?

E. SUMMARY OF EVIDENCE

18. The Tenant and Representative confirmed they had received the filed materials in this matter.
19. The Tenant provided testimony at the hearing and confirmed that he had not paid rent since October 2025 yet continued to reside in the Rental Unit to the present date. He acknowledged that WG moved out some time ago and that the Tenant owes the outstanding rent as claimed. He indicated he had experienced financial hardship during this period but recently obtained full time employment. He testified he was unsure whether he should vacate the Rental Unit while the matter was before the Rental Office and the Commission. The Tenant called no other witnesses.
20. The Representative also provided testimony at the hearing. He testified that only partial rent of \$700.00 was paid on October 23, 2025 for the first month that the Tenant occupied the Rental Unit, that being November 2025. The security deposit of \$482.00 was also paid at that time. However, the Representative testified that full rent has not been paid for the remainder of November 2025 (leaving \$264.00 owing), December 2025, January 2026, February 2026 or March 2026, yet the Tenant continues to reside in the Rental Unit. The Representative indicated that an arrangement whereby the Tenant would pay \$70.00 towards electricity services had also not occurred. The Representative asserted that the Commission should uphold the decision of the Rental Office. No further witnesses were called by the Respondent.

21. As set out by the Rental Office in Order LD26-053, the Commission notes that the Landlord and Tenant entered into a written, fixed-term tenancy agreement from November 1, 2025 to October 31, 2026 (the "Tenancy Agreement"). Rent in the amount of \$964.00 is due on the first day of the month.

F. ANALYSIS

22. The Commission must determine whether the tenancy should be terminated for non-payment of rent and the amount, if any, owed by the Tenant to the Landlord.

23. In all matters, the Commission must apply the provisions of the *Act*.

24. Section 60 of the *Act* permits a landlord to end a tenancy if rent is unpaid after the day it is due by giving proper notice accordingly.

25. The Landlord's undisputed testimony before the Commission was that rent was not paid by the Tenant since October 2025 to present. In fact, the first rental payment for November 2025 was never paid in full. The Tenant testified that he did not paid rent since October 2025 yet has continued to reside in the Rental Unit to the present time. Additionally, the Tenant confirmed he did not pay the Landlord the agreed-upon amount of \$70.00 for electricity services.

26. The Commission accepts the Landlord's evidence and notes that the Landlord has been more than fair to the Tenant in the circumstances and made numerous accommodations throughout the tenancy.

27. The evidence before the Commission establishes that the Tenant failed to pay the full amount of rent for November 2025 and has not paid rent for the months of December 2025, January 2026, February 2026, or March 2026, nor has the Tenant paid for his electricity costs as arranged.

28. The Tenant attributed the non-payment to financial hardship. While the Commission acknowledges the Tenant's circumstances, financial hardship does not relieve a tenant of the obligation to pay rent as required under the *Act* and the Tenancy Agreement.

29. The Rental Office issued an Eviction Notice to the Tenant on December 3, 2025, effective December 31, 2025. The Commission accepts that on the date the Landlord delivered the Eviction Notice, the tenant had not paid full rent for November, 2025 or any rent for December, 2025 which was due and owing.

30. The Commission further finds that the Tenant continued to occupy the Rental Unit without paying rent for several additional months following the issuance of the Eviction Notice.

31. iThe Commission finds that the Tenant owes the Landlord the following amounts for unpaid rent:
- November 2025 (balance owing): \$264.00
 - December 2025: \$964.00
 - January 2026: \$964.00
 - February 2026: \$964.00
 - March 2026: \$964.00
32. In light of the Tenant's continued failure to pay rent as required under the Tenancy Agreement, the Commission finds that termination of the tenancy is justified.
33. The Commission therefore confirms that the Tenancy Agreement is terminated effective March 31, 2026, and delivery of possession is allowed.
34. Electricity costs in the amount of \$70.00 are also owing by the Tenant to the Landlord regarding the Tenant's use of the Landlord's electricity services.
35. Pursuant to subsection 40(2) of the *Act*, a landlord may apply a tenant's security deposit toward amounts that the tenant has been ordered to pay. The Commission agrees that the Landlord may therefore apply the Tenant's security deposit toward the amounts owed under this Order.

G. CONCLUSION

36. The appeal is denied.

IT IS ORDERED THAT

1. The Commission upholds the decision of the Rental Office, and the appeal is denied.
2. The tenancy between the parties is terminated and the Tenant and any occupants must vacate the Rental Unit by 5:00 pm, March 31, 2026.
3. The Tenant must pay the Landlord \$4,120.00 for outstanding rent owing.
4. The Tenant must pay the Landlord \$70.00 for outstanding electricity costs owing to the Landlord.
5. The Tenant must pay the Landlord the sums owing within 30 days of the issuance of this Order.
6. The Landlord may offset rent owing with the security deposit received from the Tenant in October, 2025.
7. This Order does not preclude the Landlord from seeking further compensation should damage to the Rental Unit be identified beyond reasonable wear and tear in accordance with the *Act*.

DATED at Charlottetown, Prince Edward Island, 26th day of March, 2026.

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.