



Date Issued: April 21, 2026
Dockets: LR26008
Type: Rental Appeal

INDEXED AS: Danae Ingersoll and Tim McHatten v. Ken Farion and Tara MacMaster
2026 PEIRAC 19 (CanLII)
Order No: LR26-14

BETWEEN:

Danae Ingersoll and Tim McHatten (the “Landlords”)

Appellants

AND:

Ken Farion and Tara MacMaster (the “Tenants”)

Respondents

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 March 31, 2026 and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in finding that the Landlords must pay the Tenants \$10,380.29 by April 20, 2026.

B. BACKGROUND

2. This appeal concerns a rental unit located at 12 Kyler Lane, New Glasgow, PEI (the "Rental Unit").
3. The Rental Unit is a single-family house owned by the Landlords.
4. On August 26, 2024, the parties entered into a written fixed-term tenancy agreement for the Rental Unit effective from October 1, 2024, to September 30, 2025. Rent of \$3,500.00 was due on the first day of the month. A security deposit of \$3,500.00 was paid by September 27, 2024.
5. The Landlords served the Tenants with a *Form 4(B) Eviction Notice* for the Landlords' possession, effective September 30, 2025 (the "Notice"). This notice was accompanied by a letter from the Landlords indicating that they would be selling the Rental Unit. Both documents were taped to the door of the Rental Unit and received on April 3, 2025.
6. The parties agree that the tenancy ended by mutual agreement but dispute its end date.
7. On September 20, 2025, the Landlords returned \$3,349.73 of the security deposit to the Tenants.
8. On September 24, 2025, the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office seeking the return of the security deposit balance plus additional compensation (the "Tenant Application"). The Landlords were served by email on September 26, 2025.
9. On December 24, 2025, the Landlords filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office seeking to keep the security deposit balance (the "Landlord Application"). The Tenants were served by email on December 24, 2025.
10. On December 31, 2025, the Rental Office sent the parties an updated notice of a teleconference hearing for January 22, 2026, along with a copy of the Landlord Application.
11. On January 22, 2026, the Landlords and the Tenants participated in a teleconference hearing before the Rental Office.
12. On February 20, 2026, the Rental Office issued Order LD26-070 which ordered the Landlords to pay the Tenants \$10,380.29 by April 20, 2026.
13. The Landlords appealed Order LD26-070 on March 10, 2026.

14. The Commission heard the appeal on March 31, 2026, by way of telephone conference. The landlords, Danae Ingersoll and Tim McHatten, and the Tenants, Ken Farion and Tara McMaster, attended the telephone hearing.
15. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the “Act”).

C. DISPOSITION

16. The Appeal is allowed in part, and the Rental Office Order is varied accordingly.

D. ISSUES

17. The issues in this appeal are:
 - (1) Must the Landlords compensate the Tenants for the Landlord’s early possession of the Rental Unit and for a bad-faith eviction?
 - (2) Must the Landlords return to the Tenants double the security deposit balance plus interest?

E. SUMMARY OF EVIDENCE

Tenants’ Evidence

18. The Tenants submitted that on April 3, 2025, the Landlords served them with the Notice, stating they required possession of the Rental Unit for their own use.
19. The Tenants submitted that they were unaware the Rental Unit was for sale and that they had made it clear to the Landlords from the outset that they were seeking a long-term rental. They further submitted that they would not have entered into the tenancy had they known the property was for sale, and that the entire situation caused them significant frustration and distress.
20. The Tenants stated that they were contacted by the Landlords’ real estate agent within 48 hours of receiving the Notice, and that showings began shortly thereafter. They submitted that the frequency of showings disrupted their quiet enjoyment of the Rental Unit.
21. On August 10, 2025, the Tenants provided written notice to the Landlords that they would vacate the Rental Unit on September 7, 2025. Due to scheduling, the move-out inspection was conducted on September 10, 2025.
22. In response to the Notice, the Tenants secured a short-term, month-to-month furnished cottage rental beginning September 1, 2025.
23. On September 3, 2025, the Tenants rented a U-haul van to move their personal items and some furniture to the cottage rental in Stanhope, PEI. On September 5, 2025, movers transported the rest of their furniture to a storage facility in Charlottetown, P.E.I., where it

remains. The Tenants submitted receipts for moving and related expenses. As their new rental was furnished, they were required to store most of their furniture and incurred additional costs.

24. The Tenants submitted that they incurred \$3,477.48 in storage expenses between September 5, 2025, and February 19, 2026. They also claim anticipated future storage costs ranging from \$4,612.52 to \$8,089.99 for the remainder of 2026, noting uncertainty regarding the duration of their current tenancy in Halifax, Nova Scotia, where they have resided since mid-January 2026.
25. The Tenants submitted that they left the Rental Unit in reasonably clean condition and without damage. Photographs were provided in support.
26. The Tenants submitted evidence of multiple listings of the Rental Unit on online platforms, including VRBO and Expedia, and argue that the Landlords did not intend to occupy the property for personal use.
27. The Tenants seek \$6,432.34 in compensation, consisting of one month's rent (\$3,500.00) and \$2,932.34 in moving expenses, pursuant to section 72 of the *Act* due to their eviction from the Rental Unit to allow the Landlord's personal occupation.
28. The Tenants also seek \$7,907.16 in compensation for a bad-faith eviction under sections 65 and 75 of the *Act*, submitting that the Landlords did not have a genuine intention to occupy the Rental Unit.
29. The Tenants submit that while the *Act* does not specify the exact compensation owed to tenants by a landlord following a bad faith eviction, Section 65(6) of the *Act* outlines remedies that can include compensation for additional rent, moving, storage and other similar expenses that the tenant has incurred or will incur for up to one year.
30. The Tenants also claim the Landlords withheld a portion of their damage deposit without justification and without obtaining approval from the Rental Office within the prescribed time, leading them to seek return of double its value plus interest as permitted under the *Act*.

Landlords' Evidence

31. The Landlords provided the Notice and letter to the Tenants in early April, 2025 indicating the tenancy would be ending September 30, 2025 and that they were planning to sell the Rental Unit. The Landlords further indicated that they would not be renewing the tenancy agreement at the end of the term, and that they wanted to provide the Tenants with as much notice as possible.
32. The Landlords stated that they wanted to sell the Rental Unit due to economic uncertainty, a recent remortgage, and other financial considerations. They submitted that the Rental Unit had been listed for sale at various times since 2022 and that, if it did not sell, they intended to occupy it themselves. They further submitted that the property did not sell as anticipated and was not relisted. The future of the Rental Unit remains under consideration, and one of the Landlords has stayed there intermittently since October

2025. The Landlords have both had health issues as of late which has paused plans for the Rental Unit, and it is not presently for sale or for rent.

33. The Landlords submitted that they provided adequate notice and that comparable rental properties were available to the Tenants. They further submitted that the Tenants did not make reasonable efforts to secure alternative accommodations and that they should not be responsible for storage expenses given the six-month notice period.
34. The Landlords dispute certain of the Tenants claimed moving expenses, including a \$300.00 gratuity, \$67.07 for meals, \$27.08 for fuel, and mail redirection fees.
35. The Landlords originally claimed for additional cleaning expenses of \$230.00 to be withheld from the damage deposit, but at the hearing of this appeal, they indicated they were not proceeding with this claim.
36. The Landlords submit that the evidence does not establish bad faith, as there was no improper purpose or dishonesty.

F. ANALYSIS

37. An appeal to the Commission, per subsection 89(8) of the *Residential Tenancy Act*, is heard by way of a re-hearing, and the Commission has the discretion to receive and accept new evidence and information, and to make any decision or order that the Director is authorized to make. The statutory requirement for a re-hearing requires that the Commission make its own decision based on the entire record.¹
38. The Commission has carefully considered the evidence and submissions and finds that, while compensation to the Tenants is warranted, the Commission will reduce the quantum awarded by the Rental Office in the circumstances.
39. The Commission finds that the Notice issued by the Landlords was not in compliance with the *Act* and, for the reasons that follow, that the presumption of bad faith applies in this case. However, in the circumstances, the Commission finds the evidence did not establish deliberate misconduct and has reduced the compensation per s. 65(6) of the *Act* accordingly.

Tenants' Claim for Rent & Moving Expenses

40. Section 72 of the *Act* provides that a tenant is entitled to compensation equal to one month's rent, plus reasonable moving expenses where a landlord gives notice for personal occupancy.
41. The Commission awards one month's rent in the amount of \$3,500.00. The Commission also finds that the Tenants are entitled to reasonable moving expenses. The Tenants claimed moving expenses of \$2,932.34. However, the Commission finds that discretionary expenses, including meals totalling \$67.07 and gratuities totalling \$300.00, are not recoverable and are excluded from this award.

¹ *Perry v. Kings Square Affordable Housing*, 2023 PESC 32, at para 22.

42. Therefore, the total amount owing from the Landlords to the Tenants for compensation pursuant to section 72 of the *Act* is: \$3,500.00 for one month's rent and \$2,565.27 for moving expenses.

Tenants' Bad Faith Eviction Claim

43. The Commission has consistently held that a notice for a landlord's possession requires a genuine and bona fide intention, at the time the notice is given, to occupy the premises for residential purposes. The Commission finds that this requirement was not met.

44. In this case, the evidence demonstrates that the Landlords listed, or intended to list, the Rental Unit for sale and at various times explored alternative uses of the property, including short term rentals. The Commission finds that this is inconsistent with the statutory requirement under the *Act* for personal occupancy. As stated above, a notice for a landlord's own use requires a genuine intention to occupy the premises.

45. The Commission accepts that the Landlords may have misunderstood their obligations regarding "personal use" under the *Act*, however, such a misunderstanding does not preclude a finding of bad faith and does not excuse non-compliance with the *Act*.

46. The Landlords' apparent belief that selling the property fell within "personal use" is incorrect in law and accordingly the Commission finds that the presumption of "bad faith" applies under section 65(4)(c) of the *Act*. The Landlords are then required to prove to the contrary on a balance of probabilities that they did not act in "bad faith". In the present case, the Commission notes that the Landlords were not dishonest about their intentions about selling the Rental Unit but clearly did not understand the distinction between taking personal possession and selling the Rental Unit. The Landlords gave evidence that their intentions may have shifted after giving the Notice due to personal circumstances, but the Commission finds that this does not change their statutory obligations at the time of the Notice to the Tenants. The Commission finds that ignorance of the *Act* is not sufficient to rebut the presumption of bad faith.

47. Section 65 of the *Act* permits the Commission to award compensation where a landlord acts in bad faith or where a tenancy is ended improperly.

(1) A former tenant may make an application to the Director under section 75 to determine whether a landlord gave a notice of termination under sections 62, 63, or 64 in bad faith.

(4) For the purposes of an application under subsection (1), it is presumed, unless the contrary is proven on a balance of probabilities, that a landlord gave a notice of termination under section 62 in bad faith if, at any time during the period described in subsection (5), the landlord

(a) Advertises the rental unit for rent;

(b) Enters into a tenancy agreement in respect of the rental unit with someone other than the former tenant; or

(c) Advertises the rental unit or the residential property that contains the rental unit, for sale.

- (5) *The period referred to in subsection (4) is the period that*
 (a) *begins on the day the landlord gives the notice of termination*
under section 62; and
 (b) *ends one year after the former tenant vacate the rental unit.*

48. An award of compensation must be evidence-based, reasonable, and proportionate to the loss established. While the Commission finds that the bad faith test has been met, it also finds that the evidence does not establish deliberate misconduct or deception, nor significant financial loss warranting a substantial award.
49. The Commission reiterates that its role is to provide fair and reasonable compensation, not to impose punitive damages.
50. Therefore, the Commission awards the Tenants \$1,000.00 storage costs, inconvenience, and transitional disruption associated with the termination of the tenancy in bad faith. Claims for speculative future storage costs are not supported by sufficient evidence and are not awarded. In making this award, the Commission notes that the Tenants did not contest the Notice and were provided close to six months to obtain other accommodations.
51. Accordingly, the Commission varies the Rental Office Order to reflect the reduced compensation as outlined herein.

Double Security Deposit

52. The Commission confirms the finding in Order LD26-070 with respect to the applicability of subsection 40(4) of the *Act*. Therefore, the Landlords must compensate the Tenants double the security deposit balance, including interest on the balance. However, the Commission recalculates the amount owing.
53. The security deposit was \$3,500.00. The Landlords returned \$3,349.73 on September 20, 2025. Therefore, the amount the Landlords held back from the security deposit was \$150.27. The landlords also did not return the amount of interest owing on the full security deposit. As calculated in Order LD26-070, this was \$83.70 as of September 20, 2025.
54. The Commission is not of the opinion that the interest owing on the security deposit is to be doubled when subsection 40(4) is applied. The definition of “security deposit” does not include the interest accrued.
55. The Commission finds the Landlord owes the tenant the following amount:

Balance of security deposit withheld:	\$150.27
Interest owing on full security deposit as of September 2025:	\$83.70
Interest on withheld amount to date of Commission order:	\$5.90
Double withheld amount:	<u>\$150.27</u>
Total owing:	\$390.14

G. CONCLUSION

56. The Landlord's appeal is **allowed, in part**. Order LD26-070 is varied to revise the awards for moving expenses and bad faith, and to update the interest calculation on the security deposit balance.

57. The Landlords shall pay the Tenants the total amount of \$7,455.41, calculated as follows:

- A. One month's rent in the amount of \$3,500.00;
- B. Moving expenses in the reduced amount of \$2,565.27 [\$2,932.34 less \$300.00 less \$67.07];
- C. \$1,000.00 for a bad faith eviction representing storage costs, inconvenience and disruption.
- D. Double the remaining security deposit balance as calculated at paragraph 56, for a total of \$390.14.

IT IS ORDERED THAT

- 1. **The appeal is allowed, in part.**
- 2. **The Landlords shall pay the Tenants the total amount of \$7,455.41 and payment shall be made on or before May 5, 2026.**

DATED at Charlottetown, Prince Edward Island, 21 day of April, 2026.

BY THE COMMISSION:

(sgd. Pamela J. Williams, K.C.)

Pamela J. Williams, K.C.

(sgd. Gordon MacFarlane)

Gordon MacFarlane

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.