



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: October 13, 2026

Dockets: LR26049

Type: Rental Appeal

INDEXED AS: S and D Professional Corporation v. Matthew

Beamish and Jessica Mae Hainge

2026 PEIRAC 67 (CanLII)

Order No: LR26-53

BETWEEN:

S and D Professional Corporation (the "Landlord")

Appellant

AND:

Matthew Beamish and Jessica Mae Hainge (the "Tenants")

Respondents

ORDER

Panel Members:

Gordon MacFarlane, Commissioner

Pamela J. Williams, K.C., Chair

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 1, 2026, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Landlord must pay the Tenants \$1,338.87 by August 27, 2026.

B. BACKGROUND

2. This appeal concerns a rental unit located at 139 Brooklyn Avenue, Charlottetown, PEI (the “Rental Unit”).
3. The Rental Unit is one half of a side-by-side duplex, with two bedrooms and two bathrooms.
4. The Rental Unit was completed in June 2024.
5. On November 28, 2024 the parties entered into a written, fixed-term tenancy agreement. The term was from December 1, 2024 to November 30, 2025. Rent in the amount of \$2,500.00 was due on the first day of the month. The Tenants paid the Landlord a \$2,500.00 security deposit at the start of the tenancy.
6. On October 6, 2025 the Tenants gave the Landlord notice they were not continuing the tenancy past the fixed-term end date.
7. On October 31, 2025 the Tenants gave the Landlord notice that they were vacating the Rental Unit by November 15, 2025.
8. On November 12, 2025 the Tenants vacated the Rental Unit. The parties agreed to complete the move-out inspection on November 15, 2025. The move-out inspection was not jointly completed because the parties’ schedules conflicted.
9. On November 15, 2025 the Landlord returned \$500.00 of the security deposit to the Tenants.
10. The parties dispute whether the tenancy ended on November 15, 2025 or November 30, 2025.
11. On December 15, 2025 the Tenants e-mailed the Landlord and the Rental Office a *Form 2(A) Tenant Application to Determine Dispute* requesting the return of the security deposit, including interest.
12. On December 17, 2025 the Landlord e-mailed the Tenants and the Rental Office a *Form 2(B) Landlord Application to Determine Dispute* seeking to keep the Tenants’ security deposit, including interest, and additional compensation.
13. On December 19, 2025 the Tenants e-mailed the Landlord and the Rental Office an amended *Form 2(A) Tenant Application to Determine Dispute*.

14. On April 16, 2026 the Tenants e-mailed the Landlord and the Rental Office an amended *Form 2(A) Tenant Application to Determine Dispute* (the “Tenant Application”).
15. On May 11, 2026 the Landlord e-mailed the Tenants and the Rental Office a further amended *Form 2(B) Landlord Application to Determine Dispute* (the “Landlord Application”).
16. On May 22, 2026 the Rental Office e-mailed the parties notice of a tele-hearing scheduled for June 18, 2026.
17. On June 18, 2026 the Tenants, the Landlord’s representatives (the “Representatives”) and the Landlord’s witnesses (“JA” and “AR”) participated in the tele-hearing before the Rental Office. The parties confirmed that they received the evidence package and confirmed that all evidence submitted to the Rental Office was included in the package.
18. On July 27, 2026, the Rental Office issued order LD26-262, which Ordered that the Landlord must pay the Tenants \$1,338.87 by August 27, 2026.
19. The Landlord appealed Order LD26-262 on August 5, 2026 and the Tenants appealed Order LD26-262 on August 14, 2026.
20. The Commission heard the appeal on September 1, 2026, by way of telephone conference. The Landlord, S and D Professional Corporation was represented at the telephone conference hearing by Arvind Singh. Jeff Adams (“JA”) and Angel Rodriguez (“AR”) attended the telephone conference hearing as witnesses for the Landlord. The Tenants, Matthew Beamish and Jessica Mae Hainge attended the telephone conference hearing.
21. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the “Act”).

C. DISPOSITION

22. The Landlord's appeal is allowed in part. The Tenants' appeal is dismissed.
23. The Commission finds that the Tenancy Agreement remained in effect until November 30, 2025. The Tenants are therefore responsible for the unpaid balance of November 2025 rent in the amount of \$1,250.00.
24. The Commission further finds that the Landlord has established an additional entitlement of \$1,500.00 for painting and repairs arising from damage caused by the Tenants.
25. The Commission confirms the Rental Office's remaining awards relating to the Landlord's established claims.
26. The Commission also finds that the Landlord did not comply with section 40 of the *Act* in dealing with the security deposit. The Tenants are therefore entitled to the remaining security deposit, applicable interest, and the statutory double-security-deposit remedy.

27. Based on the figures established in this decision, the Landlord's total entitlement is \$5,508.62 and the Tenants' total entitlement is \$4,097.49.

28. After setting off the respective entitlements, the Tenants owe the Landlord \$1,411.13.

D. ISSUES

29. The issues before the Commission are:

- a. Did the Tenancy end on November 15, 2025, or November 30, 2025?
- b. If the Tenancy ended on November 30, 2025, do the Tenants owe the Landlord \$1,250.00 in additional rent for November 2025?
- c. Has the Landlord established additional claims for compensation for damage to the Rental Unit?
- d. Did the Landlord comply with section 40 of the *Act* in dealing with the security deposit?
- e. What amount is ultimately payable by one party to the other after accounting for all amounts established on appeal?

E. SUMMARY OF EVIDENCE

Landlord's Evidence & Submissions

30. The Landlord submits that the Tenants entered into a fixed-term Tenancy Agreement covering December 1, 2024, to November 30, 2025.

31. The Landlord submits that the Tenants paid only \$1,250.00 toward November 2025 rent and remain responsible for the additional \$1,250.00 because the tenancy did not end on November 15, 2025.

32. The Landlord and JA submit that the Rental Unit was well constructed and that there was no damage before the Tenants took possession. The Tenants were the first occupants of the Rental Unit.

33. The Landlord and witnesses JA and AR submit that the condition of the Rental Unit at the end of the tenancy included damage beyond reasonable wear and tear.

34. JA testified that the living area required substantial or complete repainting because of patch marks and other damage to the walls.

35. The Landlord submits that a move-out inspection was conducted with the Tenants participating by telephone due to scheduling conflicts.

36. The Landlord submits that, following the move-out discussion, the parties reached an agreement concerning the Tenants' responsibility for damage and that the Landlord therefore did not consider it necessary to make an immediate application concerning the security deposit.

37. The Landlord submits that the Tenants agreed to pay for damage before December 15, 2025, and that the Landlord should consequently not be subject to the double-security-deposit remedy.
38. JA provided estimates in support of the Landlord's claims for repair and restoration.
39. The Landlord seeks reconsideration of the findings regarding damages contained in the Rental Office's Order, including flooring, the sink drain, heat-pump cleaning, the front door, keypad, garage-door remote control, towel-bar base and painting.
40. The Landlord submits that photographs establish extensive patchwork on the living-area walls beyond reasonable wear and tear and seeks compensation based on the \$2,500.00 estimate for painting the living area and a bedroom.
41. The Landlord submits that the Rental Office did not adequately account for unpaid November rent, the garage-door remote control, damage to the heat pump and damage to the towel-bar base.

Tenants' Evidence and Submissions

42. The Tenants dispute that the claimed damage, except for the door, was beyond reasonable wear and tear. They characterize the estimates provided by JA as excessive.
43. The Tenants submit that the Landlord acknowledged that one-half of the November rent was acceptable because the tenancy ended on November 15, 2025.
44. The Tenants submit that the Landlord was required to conduct a proper move-out inspection and did not do so.
45. The Tenants submit that the Landlord failed to comply with the statutory deadline for dealing with the security deposit and is therefore subject to the double-security-deposit remedy under section 40 of the *Act*.
46. The Tenants submit that the statutory requirements concerning the security deposit should be applied by the Commission as written.

F. ANALYSIS

When did the tenancy end?

47. The Tenants and the Landlord entered into a written fixed-term Tenancy Agreement that specified November 30, 2025, as the end of the tenancy.
48. Section 55(3) of the *Act* permits a tenant to end a fixed-term tenancy by giving notice, but the effective date of the notice cannot be earlier than the date specified in the tenancy agreement as the end of the tenancy.

49. The Tenants advised the Landlord on October 6, 2025 that they would not continue the tenancy beyond the fixed-term end date. That notice was consistent with the tenancy ending on November 30, 2025.
50. On October 31, 2025, the Tenants advised the Landlord that they intended to vacate by November 15, 2025. The Tenants subsequently vacated the Rental Unit on November 12, 2025.
51. Physical vacancy, however, does not by itself establish that a fixed-term tenancy has ended. The evidence must establish that the tenancy was otherwise terminated in accordance with the *Act* or that the parties agreed to an earlier termination.
52. The Commission has considered the evidence concerning the parties' communications, the November 15 move-out arrangements, and the Landlord's return of \$500.00 of the security deposit.
53. The Commission finds that the evidence does not establish that the parties entered into an agreement terminating the Tenancy Agreement on November 15, 2025. In particular, the evidence does not establish a clear agreement by the Landlord to release the Tenants from their obligation to pay rent through November 30, 2025.
54. The Commission also finds that the Tenants did not have a statutory right to terminate the fixed-term tenancy effective November 15, 2025. The October 31 notice therefore did not terminate the fixed-term tenancy on that date.
55. Accordingly, the Commission finds that the tenancy ended on November 30, 2025.

November rent

56. The monthly rent under the Tenancy Agreement was \$2,500.00.
57. The Tenants paid \$1,250.00 toward November 2025 rent.
58. Because the tenancy remained in effect until November 30, 2025, the Commission finds the Tenants remained responsible for the rent payable under the Tenancy Agreement for the entire month of November 2025.
59. The unpaid balance of November rent is \$1,250.00. Therefore, the Landlord is entitled to an additional award of \$1,250.00 for unpaid November rent.

Damage and compensation claims

60. Section 39(2) of the *Act* requires a tenant, when vacating a rental unit, to leave the unit reasonably clean and undamaged, except for reasonable wear and tear.
61. The Landlord bears the burden of establishing, on a balance of probabilities, that the claimed damage was caused by the Tenants, that the damage was beyond reasonable

wear and tear, and that the amount claimed represents a reasonable loss attributable to the damage.

62. The Landlord relies on photographs, estimates and the testimony of JA and AR. The evidence establishes that the Rental Unit was newly constructed in June 2024 and that the Tenants were its first occupants.
63. The fact that the Rental Unit was newly constructed is relevant to the assessment of its condition at the commencement of the tenancy. It does not, however, establish that every defect or condition observed at the end of the tenancy was caused by the Tenants.
64. The Commission has also considered the evidence concerning the move-out inspection. Section 38 of the *Act* establishes requirements respecting inspection at the end of a tenancy. The evidence does not establish that a joint inspection was completed in person. The parties' schedules conflicted, and the Landlord proceeded with the move-out process with a phone inspection with the Tenants.
65. The absence of a joint inspection is relevant to the weight that can be given to evidence concerning the condition of the Rental Unit at the end of the tenancy. It does not, however, automatically defeat a damages claim where other reliable evidence establishes the condition of the Rental Unit and the cause of the damage.
66. The RTO awarded \$2758.62 to the Landlord for repairs and unpaid utilities and the Landlord has asked for a reconsideration of this amount.
67. In particular, the photographs and testimony concerning patch marks and damage to the walls in the living area establish that repairs and painting were required beyond ordinary maintenance associated with normal occupancy.
68. The Commission is not persuaded, however, that all amounts claimed by the Landlord have been established to the extent sought.
69. The Landlord seeks additional compensation for a number of items, including flooring, the sink drain, heat-pump cleaning, the front door, keypad, garage-door remote control, towel-bar base and painting.
70. An estimate, without more, does not necessarily establish that the full amount of the estimate constitutes a compensable loss. The amount awarded must be connected to damage caused by the Tenants and must represent a reasonable cost of restoring the Rental Unit from the damage established by the evidence.
71. The Landlord provided an estimate for painting in the amount of \$2500 plus HST to provide 2 painters for a full day work. The RTO denied this claim on the concern that the photographs were not clear or detailed enough to determine the degree of damage to the walls. The Commission upon review of the photographs and hearing the oral evidence at the Commission's hearing has come to a difference result. Although the Commission finds the quote to be excessive, it finds that the photographs and evidence provided by the Landlord establish that the paint condition on the walls are beyond what you would describe as "reasonable wear and tear". Therefore, the Commission will award \$1500 to the Landlord to repair and paint the Unit as required.

71. The Commission does not find sufficient evidence to increase the awards relating to the Landlord's other repair claims beyond the amounts already recognized in Order LD26-262.
72. Accordingly, except for the additional \$1,500.00 award for painting and repairs, the Rental Office's findings concerning the Landlord's repair and compensation claims are confirmed.

Security Deposit

73. The Tenants paid a security deposit of \$2,500.00 at the commencement of the tenancy. The Landlord returned \$500.00 to the Tenants on November 15, 2025. The remaining security deposit was therefore \$2,000.00.
74. Section 40(1) of the *Act* requires a landlord, within 15 days after the date the tenancy ends, either to return the security deposit with interest calculated in accordance with the regulations or to make an application to the Director claiming against the security deposit.
75. The Commission has found that the tenancy ended on November 30, 2025. The 15-day period under section 40 therefore expired on December 15, 2025.
76. The Landlord did not file its Form 2(B) application until December 17, 2025 and accordingly did not make its application within the statutory 15-day period.
77. Section 40(3)(a) permits a landlord to retain an amount from a security deposit where, at the end of the tenancy, the tenant agrees in writing that the landlord may retain the amount to pay a liability or obligation of the tenant. Section 40(3)(b) also permits retention where, after the end of the tenancy, the Director orders that the landlord may retain the amount.
78. The Landlord submits that the Tenants agreed during move-out discussions that they would be responsible for the damage and that the Landlord therefore did not consider it necessary to file an application before receiving estimates.
79. The Commission accepts that even if such discussions took place between the parties concerning damages, the evidence does not establish a written agreement satisfying section 40(3)(a) authorizing the Landlord to retain the outstanding security deposit.
80. The Landlord's decision to await repair estimates also does not extend or suspend the statutory 15-day period.
81. The Commission therefore finds that the Landlord failed to comply with section 40 of the *Act*.
82. The wording of subsection 40(4) is mandatory – in other words the Commission has no discretion to apply or not apply the section. Once the Landlord failed to comply with the requirements of subsection 40(1), the Landlord was prohibited from making a claim against the security deposit and was required to pay the Tenants double the amount of the security deposit.

83. The Commission therefore finds that the Landlord is not entitled to set off the Landlord's established damage claims against the security deposit itself and It must pay the Tenants double the amount of the security deposit.
84. This finding does not extinguish the Landlord's otherwise established claims for unpaid rent or compensation for damages. Those claims are separate amounts payable under section 85 of the *Act*.
85. The Tenants total entitlement arising from this security deposit is \$4,097.49.

<u>Description</u>	<u>Amount</u>
Remaining security deposit	\$2,000.00
Double security deposit	\$2,000.00
Accrued security deposit interest	\$ 97.49
Total Tenant entitlement	\$4,097.49

86. Order LD26-262 resulted in an amount of \$2,758.62 being awarded to the Landlord in respect of the Landlord's established claims, after the Rental Office's accounting of the claims before it.
87. On appeal, the Commission has determined that the Landlord is additionally entitled to \$1,250.00 for unpaid November 2025 rent and \$1,500.00 for additional painting and repair compensation.
88. Therefore, the Commission determines that the Landlord's revised entitlement is as follows:

<u>Description</u>	<u>Amount</u>
Amount awarded by Rental Office	\$2,758.62
Additional November, 2025 rent	\$1,250.00
Additional painting/repair compensation	\$1,500.00
Total Landlord entitlement	\$5,508.62

G. CONCLUSION

89. After setting off the Tenants' entitlement against the Landlord's total entitlement, the resulting balance is: $\$5,508.62 - \$4,097.49 = \$1,411.13$. The Tenants must therefore pay the Landlord \$1,411.13 by the timeline set out below.

IT IS ORDERED THAT

1. The Landlord's appeal is allowed in part.
2. The Tenants' appeal is dismissed.
3. The Tenants must pay the Landlords \$1,411.13 by October 27, 2026.

DATED at Charlottetown, Prince Edward Island, 13th day of October, 2026.

BY THE COMMISSION:

[sgd. Gordon MacFarlane]

Gordon MacFarlane

[sgd. Pamela J. Williams, K.C.]

Pamela J. Williams, K.C.

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.