

## Introduction

- [1] On April 27, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed:

*To request an order directing my tenant to pay outstanding rent;*

*To request an order to permit the disposal of my tenant's personal property;*

*Other – "oil".*

The Particulars of the application state that the Landlord is seeking \$934.00 in outstanding rent and \$1,000.00 for a half tank of oil.

- [2] The Landlord stated she did not serve the Tenant with a copy of the Application. On July 20, 2023, the Rental Office spoke to the Tenant and the Tenant provided her email address. A copy of the evidence package was emailed to both parties on July 20, 2023. The Officer is satisfied that the Tenant was notified of the hearing.
- [3] On July 25, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord participated and the Tenant did not.

## Issues to be Decided

- i. Does the Tenant owe the Landlord rent?
- ii. Does the Tenant have to pay the Landlord for oil?
- iii. Is the Landlord entitled to an order permitting them to dispose of the Tenant's abandoned personal property?

## Summary of the Evidence

- [4] On July 1, 2020, the Landlord and Tenant entered into a verbal month-to-month tenancy agreement for the Residential Property. The Residential Property consists of a single family home. Rent was \$400.00 per month due on the 20th day of the month. A security deposit was not required. The Tenant vacated the Residential Property on December 10, 2022, due to an eviction notice from the Landlord.

### Landlord's Evidence and Submissions

- [5] The Landlord stated the Tenant owes \$934.00 in outstanding rent for October 2022, November 2022, and 10 days of December 2022. She stated she evicted the Tenant for non-payment of rent. The Landlord submitted text messages into evidence from the Tenant in which the Tenant stated she was not paying the Landlord any more rent.
- [6] When the Tenant moved into the Residential Property the Landlord stated the Landlord and Tenant agreed that the Tenant would fill the oil tank back up to half-full after the Tenant moved out. The Landlord stated the Tenant did not fill the oil tank and the oil tank was empty when the Tenant vacated the Residential Property. The Landlord stated the cost for the half tank of oil would be approximately \$1,000.00.

- [7] The Landlord stated the Tenant left behind some personal property after she had vacated the Residential Property. She stated the Tenant left behind a dresser, a cabinet, an air compressor, and a snow blade. The Tenant's family attended to retrieve some items but they left these items behind. The Landlord is requesting to dispose of these items. The items are still located at the Residential Property. The Landlord stated the items have no value.

## Analysis

### Rent Owning

- [8] Subsection 85.(1)(b) of the *Act* states:

*85.(1) After hearing an application, the Director may make an order*

*(b) directing the payment or repayment of money from a landlord to a tenant or from a tenant to a landlord.*

- [9] The Officer finds based on the undisputed testimony of the Landlord that the Tenant owes the Landlord \$800.00 in rent for October 2022 and November 2022 (\$400.00 x 2) and \$131.50 rent for December 2022 totaling \$931.50 in outstanding rent.

$\$400.00 \times 12 \text{ months} = \$4,800.00 \text{ rent per year}$   
 $\$4,800.00 / 365 \text{ days per year} = \$13.15 \text{ rent per day}$   
 $\$13.15 \times 10 \text{ days in December} = \$131.50 \text{ for December}$

### Abandoned Personal Property

- [10] Subsection 43.(1)(a) and (b) of the *Act* states:

*Where a tenant abandons or vacates a rental unit and leaves personal property on the residential property, the landlord shall either*

*(a) remove the personal property and immediately place it in safe storage; or*

*(b) store the personal property on the residential property in a safe manner.*

- [11] Subsection 43.(4) of the *Act* states:

*The personal property required to be stored under subsection (2) shall be stored for not less than one month or a lesser period ordered by the Director, unless the tenant takes possession of the personal property before the applicable period has elapsed.*

- [12] Subsection 43.(7)(a) of the *Act* states:

*The Director may, on application by a landlord under section 75, authorize the landlord to dispose of personal property referred to in subsection (2) prior to the end of the applicable storage period required under subsection (4) where the Director believes on reasonable grounds that*

*the personal property has no monetary value.*

- [13] Based on the evidence and testimony provided, the Officer finds that the Landlord has taken the appropriate actions to locate the owner of the items listed in Appendix "A". The Officer finds that the items listed in Appendix "A" are or appear to be abandoned and have no monetary value. The Officer finds that the Landlord may dispose of the personal property listed in Appendix "A" through the solid waste disposal system upon receipt of this Order.

**Payment for Oil**

- [14] The Landlord stated the parties had a verbal agreement that the Tenant would ensure the oil tank was half full when the Tenant vacated the Residential Property. The Landlord stated the oil tank was empty when the Tenant vacated the property. The Officer notes that subsection 40.(3)(a) and (b) of the *Act* states:

*40.(3) A landlord may retain an amount from a security deposit if*

*(a) at the end of a tenancy, the tenant agrees in writing that the landlord may retain the amount to pay a liability or obligation of the tenant; or*

*(b) after the end of the tenancy, the Director orders that the landlord may retain the amount.*

- [15] The Officer notes that the Landlord has requested an Order from the Director requesting the Tenant pay the outstanding liability / obligation. However, because the Landlord did not require a security deposit from the Tenant, the Officer is unable to make an Order allowing the Landlord to retain all or part of the security deposit to pay for the oil.
- [16] Furthermore, the Landlord did not submit any evidence showing what the oil tank was at when the Tenant moved in or what the actual cost was for the Landlord to fill the oil tank back up. There was also no documentary evidence submitted, other than messages from the Landlord to the Tenant, showing that the Tenant had agreed to fill the oil tank back up when they vacated the Residential Property.

**Conclusion**

- [17] The Landlord may dispose of the belongings listed in the Appendix "A" through the solid waste disposal system upon receipt of this Order.
- [18] The Tenant shall pay the Landlord the outstanding rent in the amount of \$931.50 forthwith upon receipt of this Order.

**IT IS THEREFORE ORDERED THAT**

- A. The Landlord may dispose of the belongings listed in the Appendix "A" through the solid waste disposal system upon receipt of this Order.
- B. The Tenant shall pay the Landlord the outstanding rent in the amount of \$931.50 forthwith upon receipt of this Order.
- C. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

**DATED** at Charlottetown, Prince Edward Island, this 28th day of July, 2023.

\_\_\_\_\_  
(sgd.) Mitchell King  
Mitchell King  
Residential Tenancy Officer

## Appendix “A”

1. A dresser
2. A cabinet
3. An air compressor
4. A snow blade.

## NOTICE

### Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission (the “Commission”) by serving a Notice of Appeal with the Commission and every party to this Order within **7** days of this Order. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

### Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.