

Introduction

- [1] On May 18, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "First Application") with the Residential Tenancy Office (the "Rental Office"). The First Application was filed:

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

- [2] On July 19, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "Second Application") with the Rental Office. The Second Application was filed:

To make a claim against the security deposit.

- [3] On July 27, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant did not participate.

Issues to be Decided

- i. Does the Tenant owe the Landlord rent?
- ii. Is the Landlord entitled to retain all, or a portion, of the Tenant's security deposit?

Summary of the Evidence

- [4] On February 1, 2023, the Landlord and Tenant entered into a written fixed-term tenancy agreement for the Residential Property. The Residential Property consists of a condominium unit in a condominium building. Rent was \$1,495.00 per month due on the first day of the month. The Tenant only paid the Landlord \$1,495.00 plus another \$500.00. The Tenant was evicted at the end of May 2023 for non-payment of rent.

Landlord's Evidence and Submissions

- [5] The Landlord stated the Tenant paid the Landlord \$1,495.00 when he moved into the Residential Property. The Tenant told the Landlord to consider the payment either first month's rent or the damage deposit. The Tenant only paid the Landlord another \$500.00 while living in the Residential Property. The Tenant kept saying he would pay the rent but he never paid the outstanding rent. The Landlord stated the Tenant owes \$3,985.00 in outstanding rent plus another \$1,495.00 for the damage deposit.

Analysis

- [6] Subsections 85.(1)(b) and (j) of the *Act* state:

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.

(j) determining the disposition of a security deposit, including

(i) authorizing a tenant to offset, in the manner specified in the order, money a landlord owes to the tenant against money the tenant owes to the landlord, and

(ii) authorizing a landlord to offset, in the manner specified in the order, money a tenant owes to the landlord against money the landlord owes to the tenant, other than a security deposit where the landlord has not made an application under clause 40(1)(b);

- [7] The Landlord stated rent was \$1,495.00 per month. The Tenant lived in the Residential Property from February 2023 to May 2023, equaling four months (\$5,980.00). The Landlord stated the Tenant owes \$3,985.00 in rent plus the security deposit of \$1,495.00.
- [8] The Officer notes that the *Act* allows for the Officer to make an Order directing the Tenant to pay the Landlord for outstanding rent but not for an outstanding security deposit. The Officer may only Order that the security deposit offset money the Tenant owes the Landlord. In this case, no security deposit was paid, therefore the security deposit cannot be used to offset the rent owing and the Officer cannot Order the Tenant to pay the security deposit.
- [9] Based on the undisputed testimony of the Landlord, the Officer finds that the Tenant only paid the Landlord \$1,995.00 (\$1,495.00 + \$500.00) in rent. Therefore, the Officer finds that the outstanding rent the Tenant owes the Landlord is \$3,985.00 (\$5,980.00 - \$1,995.00).

Conclusion

- [10] The First Application is allowed.
- [11] The Second Application is dismissed.
- [12] The Tenant shall pay the Landlord the outstanding rent in the amount of \$3,985.00 forthwith upon receipt of this Order.

IT IS THEREFORE ORDERED THAT

- A. The Tenant shall pay the Landlord the outstanding rent in the amount of \$3,985.00 forthwith upon receipt of this Order.
- B. 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

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.