

Introduction

- [1] On July 31, 2023, the Tenants filed a Tenant Application to Determine Dispute (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed seeking:

To request a determination that my landlord contravened my right to quiet enjoyment, entered the rental unit unlawfully, prohibited and/or restricted access to the rental unit, changed the locks or failed to secure the rental unit, failed to repair or maintain the rental unit, or any other material term of the tenancy agreement; and

Other: To request a return of rent due to failure of providing repairs as stated in Order LD23-151.

- [2] On August 2, 2023, the Tenants amended their Application and stated they were seeking a return of rent of \$522.00 per month for the past three months totaling \$1,566.00 and adjusted rent of \$750.00 per month for all months where the repairs are not completed.
- [3] On September 26, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenants and the Landlord participated.

Issues to be Decided

- i. Did the Landlord fail to repair or maintain the rental unit?
- ii. Are the Tenants entitled to a return of rent?
- iii. Are the Tenants entitled to an adjustment in rent until repairs are completed?

Summary of the Evidence

- [4] In November of 2017, the Tenants and the Landlord entered into a verbal month-to-month tenancy agreement for the Residential Property. The Residential Property consists of a two-bedroom half duplex. Rent \$1,088.00 per month due on the first day of the month. A security deposit of \$800.00 was paid.

Tenants' Evidence and Submissions

- [5] The Tenants stated there was an Order issued by the Director on April 20, 2023, stating the Landlord had to complete several repairs. The only items repaired have been the holes in the deck, the dishwasher, and the yard debris. They stated the mold, driveway, backdoor, and kitchen cabinet have not been repaired or addressed. The Order stated the Landlord had three months to address the issues and it is now past that date.
- [6] The Tenants stated they contacted Environmental Health ("E.H.") and an inspection was completed of the Residential Property on August 8, 2023. E.H. recommended the mold be addressed, a pest control abatement plan for mice, exterior windows fitted with screens, and a washroom fan installed. E.H. stated the Landlord had until September 20, 2023, to address the issues. The Tenants stated none of the recommendations from E.H. have been addressed by the Landlord.
- [7] The Tenants are seeking a return of rent of \$522.00 per month for the past three months totaling \$1,566.00, as the Landlord had until July 2023 to address the repairs in the Order and he has not. They are also seeking adjusted rent of \$750.00 per month for all months where the repairs are not completed.

Landlord's Evidence and Submissions

- [9] The Landlord did not dispute that there are repairs that have not been addressed. He stated he is trying to find contractors to complete the required work but he is having a hard time finding anyone to complete the work. He stated he has someone coming to address the mold, kitchen, and bathroom but does not know when they can start.
- [10] The Landlord stated he has a company hired for the driveway but does not know when they are coming. He cannot find anyone to fix the door. He stated the mold is surface mold and just needs to be cleaned by the Tenants. He stated he offered to hire a pest control company for the upstairs tenants but they just bought mouse traps and he hasn't heard anything else about the mice.

Analysis

Repairs

- [11] The Tenants are seeking a determination that the Landlord has failed to repair or maintain the rental unit. The Tenants stated some repairs ordered by the Director and recommendations by E.H. have not been addressed by the Landlord.
- [12] Section 28.(1) of the Act states:
- (1) A landlord shall provide and maintain the residential property in a state of repair that*
- (a) complies with the health, safety and housing standards required by law; and*
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.*
- [13] Subsection 9 (a) and (c) of the *Public Health Act Rental Accommodation Regulations* (the "Regulations") state:
- The owner of any dwelling shall, when necessary*
- (a) carry out repairs or alterations to such dwelling in order to make it sound, weatherproof, damp-proof, vermin-proof, safe and sanitary in every respect;*
- (c) take necessary precautions and undertake necessary treatment to prevent or eliminate infestations by cockroaches, bedbugs, fleas, silverfish, weevils, flies, rats, mice and any or all other pests.*
- [14] The Landlord stated he has contacted various people and companies to address the repairs and recommendations but it is difficult to find anyone to complete the work. However, the Officer notes that the Landlord did provide any evidence of who he has contacted to complete the repairs, when he had contacted them, or when any the repairs or recommendations would be addressed.
- [15] The Officer has reviewed Order LD23-151 and the letter from E.H., which was sent to the Rental Office on August 14, 2023. Based on the totality of the evidence the Officer finds that the Tenants have established that the Landlord has failed to comply with subsection 28.(1) of the *Act* and subsections 9(a) and (c) of the *Regulations*.

Return and Adjustment of Rent

[16] The Tenants are seeking a return of rent of \$522.00 per month for the past three months totaling \$1,566.00 and to have rent adjusted to \$750.00 per month until the repairs and recommendations have been addressed.

[17] Subsections 85.(1)(b), (c), (d), and (p) of the *Act* state:

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;

(c) requiring a landlord or tenant who has contravened an obligation of a tenancy agreement to comply with or perform the obligation;

(d) directing that past or future rent shall be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;

(p) imposing terms and conditions the Director considers appropriate, including terms and conditions to ensure compliance with this Act, the regulations and the tenancy agreement.

[18] The Officer finds that in this case a return of rent is an appropriate remedy. The evidence establishes that the Landlord has not fixed the repairs as outlined in the Director's Order or followed the recommendations from E.H. Further, the Landlord failed to provide sufficient evidence to substantiate his reasons for delay. Therefore, the Officer finds that the Tenants are entitled to a return of rent for three months, from July 2023 to September 2023, totaling \$1,566.00.

[19] Pursuant to 85.(1)(d) the Officer further finds that in this case an adjustment of rent is an appropriate remedy until the repairs and recommendations have been addressed. Therefore, the Officer finds that there will be an adjustment of rent to \$750.00 per month until the repairs and recommendations listed in this Order have been completed to the satisfaction of Environmental Health.

Conclusion

- [20] The Landlord shall pay or credit the Tenants \$1,566.00 in rent beginning November 1, 2023.
- [21] Rent will be reduced at the Residential Property to \$750.00 per month, beginning November 1, 2023, until the repairs listed in this Order have been completed to the satisfaction of Environmental Health.
- [22] The Landlord shall provide a written update with photos of the completed repairs to Environmental Health once the repairs are complete.
- [23] The Landlord shall make the following repairs to the Residential Property forthwith:
- i. The source for the mold growth inside the rental unit must be determined and control measures implemented.
 - ii. A pest control abatement plan must be implemented.
 - iii. The exterior windows must be fitted with screens.
 - iv. The washroom must be equipped with an effective exhaust fan.
 - v. Repair Driveway – Potholes and deep tracks.
 - vi. Repair Back Door – Leaking and water infiltration.
 - vii. Kitchen Cabinet – Repair missing plinth / kick plate.

IT IS THEREFORE ORDERED THAT

- A. The Landlord shall pay or credit the Tenants \$1,566.00 in rent beginning November 1, 2023.
- B. Rent will be reduced at the Residential Property to \$750.00 per month, beginning November 1, 2023, until the repairs listed in this Order have been completed to the satisfaction of Environmental Health.
- C. The Landlord shall provide a written update with photos of the completed repairs to Environmental Health once the repairs are complete.
- D. The Landlord shall make the following repairs to the Residential Property forthwith:
- i. The source for the mold growth inside the rental unit must be determined and control measures implemented.
 - ii. A pest control abatement plan must be implemented.
 - iii. The exterior windows must be fitted with screens.
 - iv. The washroom must be equipped with an effective exhaust fan.
 - v. Repair Driveway – Potholes and deep tracks.
 - vi. Repair Back Door – Leaking and water infiltration.
 - vii. Kitchen Cabinet – Repair missing plinth / kick plate.

DATED at Charlottetown, Prince Edward Island, this 3rd day of October, 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 **20** 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.