

Introduction

- [1] On July 25, 2023 the Tenant filed a *Tenant Application to Determine Dispute* (Form 2A) (the “Application”) with the Residential Tenancy Office (the “Rental Office”) seeking a determination that the Landlords unreasonably withheld consent to sublet and contravened the *Act*. Further, the Tenant sought clarity over rent increases in the province.
- [2] The Application referenced maintenance and repair concerns, however, the parties confirmed that repairs were either resolved or in the process of being fixed. Additionally, the Tenant sought out the Application for clarity and understanding around specific issues, and not necessarily to ask for a specific remedy.
- [3] All documents were properly served.
- [4] On September 28, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Tenant appeared, representing themselves, and had a witness. A representative appeared on behalf of the Landlords.

Issues to be Decided

- i. Did the Landlords unreasonably withhold consent to sublet?
- ii. Did the Landlords contravene the *Act*?

Summary of the Evidence

- [5] On September 30, 2022 the parties entered into a written fixed term tenancy agreement for the Residential Property. The fixed term converted to a month-to-month. Rent is \$1,395.00 due on the first day of the month. A security deposit of \$1,000.00 was required and paid among three tenants. The parties submitted into evidence 84-pages of evidence, along with an additional 1-page response.

Tenant’s Evidence and Submissions

- [6] The Tenant testified that on April 30, 2023 his two roommates (co-tenants) vacated the Residential Property. The Tenant testified that he permitted two summer students to live with him during the summer months, and they vacated in August 2023. The Tenant testified that there are two occupants presently living in the Residential Property, and that the Landlords were made aware.
- [7] The Tenant testified that the Landlords requested an increase in the rent; however, after the parties spoke with the Rental Office, realized such an increase was not permitted. The Tenant seeks an answer about how rent increases work in the province, and that because the two co-tenants vacated he was responsible for the full rent – is that a rent increase?
- [8] The Tenant further testified that he wishes to know if he is permitted to have roommates, through sublease. The Tenant testified that the Landlords unreasonably withheld consent for him to sublet the Residential Property and to find roommates to assist with the living expenses.
- [9] The Tenant submitted into evidence written submissions and photographs of e-mail and text message conversations between the Tenant and the Landlords.

Landlords’ Evidence and Submissions

- [10] The Landlords’ submitted into evidence written submissions, photographs of text message and e-mail conversations between the Landlords, the Tenant and the co-tenants. The Landlords also submitted into evidence an additional response in relation to an inquiry requested by the Officer.

- [11] C.M. on behalf of the Landlords denied the Tenant's claim that the Landlords unreasonably or arbitrarily withheld consent to sublet the Residential Property. Further, C.M. testified that the Landlords have not contravened the *Act*.
- [12] C.M. argued that subsection 30.(1) of the *Act* clearly requires written consent from the Landlords if the Tenant seeks to assign or sublet the Residential Property. C.M. continued that subsection 30.(3) of the *Act* outlines where a landlord may withhold consent. C.M. outlined that the Landlords did not withhold consent; however, needed to confirm with the existing co-tenants that they were vacating, thus terminating their respective tenancy agreements. C.M. outlined that the Landlord did not receive written notice from the co-tenants until July 26, 2023 through e-mail.
- [13] C.M. argued that the Landlords required the Tenant to provide some information about any occupants or potential subtenants for the Landlords could provide consent based on the information. C.M. argued that the Tenant has not provided sufficient evidence to establish that the Landlords contravened the *Act*.
- [14] The Landlords provided an additional 1-page document into evidence in response to an inquiry that the Officer had during the hearing. The Tenant's testimony demonstrated that he wanted clarity around whether he was able to seek out a subtenant and handle the responsibilities which come with it. Or, did the Landlords want to find co-tenants and entered into tenancy agreements with these people. The Landlords provided a written submission to address this matter with this specific point:
- "While I respect whatever decision you arrive at from the hearing – it is my preference that, going forward, all parties living at [redacted] enter into a new fixed term lease agreement."*
- [15] The Landlords continues in the submissions to provide reasons to why he decided this, and that he feels the landlord-tenant relationship has broken down and that any new tenancy agreements would not have an option to renew.

Analysis

- [16] To begin, the Officer wishes to address the Tenant's request for greater clarity around rent increases in Prince Edward Island. The Officer makes note that Prince Edward Island is a rent controlled jurisdiction governed by the *Act*. Subsections 47.(1) and (2) of the *Act* states:
- Rent increases***
A landlord shall not increase rent except in accordance with this Part.
- Obligations tied to rental unit***
The obligations of a landlord under this Part run with the rental unit and not the tenant.
- [17] Simply put, a landlord may *only* increase the rent once every 12-months in accordance with the *Act*. The Officer notes that a landlord may choose to increase the rent by the *allowable amount* set by the Director, providing their tenant with three months' notice. A landlord may also seek to file an application for an *additional rent increase* with the Rental Office. This additional rent increase may be approved by the Rental Office based on the factors set out in subsections 50.(3) and 50.(4) of the *Act*. The Officer further notes that with the additional rent increase, there are specific restrictions and important points to consider in the application process, however, the Officer will not elaborate on those points at this time. The Officer encourages every tenant and landlord to review section 50 of the *Act*.

- [18] In this case, the Officer heard testimony regarding an increase which the Landlords sought earlier in the year. The Tenant did not dispute that rent increase, however, the parties became aware of the rules and regulations surrounding rent increases. As a result, the Landlords rescinded the rent increase and the rent remained \$1,395.00. The Tenant split this rent three ways with two other co-tenants. After the co-tenants vacated, the Tenant became solely responsible for the rent.
- [19] The Officer finds that this does not amount to an *illegal* rent increase, and is truly not even a rent increase. Although, the Officer notes that dollar to cents, the Tenant may feel that it is an increase in their rent as their portion of responsibility to pay increases. However, the legal rent charged for the Residential Property has not changed from \$1,395.00 as the evidence suggests throughout the tenancy of the Tenant, co-tenants/occupants and the Landlords.

Issue i: Did the Landlords unreasonably withhold consent to sublet?

- [20] With regard to subletting, the Officer notes that subsections 30.(1), (2), and (3) of the Act state:

Tenant may sublet or assign rental unit with landlord's consent

A tenant may, with the written consent of the landlord, sublet or assign a rental unit or part of a rental unit to another person.

Landlord shall not unreasonably withhold consent

A landlord shall not arbitrarily or unreasonably withhold consent to a sublet or assignment of a rental unit or part of it.

Landlord may withhold consent

A landlord may withhold consent if it appears to the landlord that the proposed sublet or assignment of the rental unit or part of it would result in an unreasonable number of persons occupying the rental unit or part of it.

- [21] The Officer finds that based on the testimony of the parties, along with the written submissions and evidence provided by the parties that the Landlords have not unreasonably withheld consent. The Officer finds that the documentary evidence suggests to the Officer that the Landlords wanted to know some relevant information regarding to potential candidates to be able to make an informed decision. This does not amount to unreasonably withholding consent.
- [22] The Officer notes that the Landlords in their additional submission provided that they would rather have a tenancy agreement with any potential "roommates" of the Tenant rather than have a sub-tenancy. The Officer finds that the parties were open to this arrangement and if the Landlords wish to take the responsibility to advertise, accept/deny, interview and/or enter into a tenancy agreement with new people that is within the rights of the parties.

Issue ii: Did the Landlords contravene the Act?

- [23] The Officer finds that the Landlords have continued with repairs in the Residential Property, and have completed other repairs. The Officer finds that the documentary evidence and the testimony of the parties does not establish to the Officer that the Landlords have contravened the Act.

Conclusion

- [24] The Application is denied.

IT IS THEREFORE ORDERED THAT

A. The Application is denied.

DATED at Charlottetown, Prince Edward Island, this 19th day of October, 2023.

(sgd.) Cody Burke
Cody Burke
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.