

Introduction and Material Facts

- [1] On September 19, 2023 the Tenants filed a *Tenant Application to Determine Dispute* (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is requesting a return of rent, a reduction of rent and repairs.
- [2] A hearing for the Application is scheduled for November 7, 2023 before a Residential Tenancy Officer.
- [3] On October 13, 2023 the Rental Office received copies of letters from an Environmental Health Officer concerning the cockroach infestation at both the upstairs and downstairs units at the Residential Property.
- [4] On October 23, 2023 the Tenants contacted the Rental Office regarding a new eviction notice that they received from the Landlord. Further, the Tenants alleged that the Landlord threatened to shut off the power to the Residential Property, which would also turn off the heat to the Residential Property.
- [5] On October 23, 2023 the Rental Office received an email from the Manager of Environmental Health alleging that the power may be disconnected by the Landlord at the Residential Property. Also enclosed in the email was a Public Health Order issued on October 20, 2023 by the Chief Public Health Officer for immediate remediation of the cockroach infestation.
- [6] On October 25, 2023 both the Tenant and Landlord were contacted by the Director. The Tenant confirmed that rent is \$1800 per month and includes electric heat, lights, internet and that electricity is needed in order to flush the toilet. The Landlord confirmed that he had asked Maritime Electric to disconnect the power as he can't afford to pay his bill. The Landlord further stated that the power will be disconnected anyway as there is a bill outstanding in the amount of \$1000 and he can't afford to pay it. The Director advised that it is against law to cut the power to the Residential Property as heat and lights are included in the tenancy agreement with his Tenants.

Analysis

- [7] The Director makes reference to subsection 21.(1) of the *Act* which states:
- 21. Terminating or restricting services or facilities**
(1) *A landlord shall not terminate or restrict a service or facility if*
 (a) *the service or facility is reasonably related to the tenant's use and enjoyment of the rental unit as living accommodation; or*
 (b) *the service or facility is a term of the tenancy agreement*
- [8] The Director is issuing an interim Order pursuant to sub-subsection 80.(3)(e) of the *Act* which states:
- 80. Hearing Procedure**
Director's powers of procedure
(3) *The Director has authority to*
 ...
 (e) *make interim or temporary orders.*
- [9] The Director notes that this interim Order is made without a formal hearing due to the serious concern to the overall safety and security of the Tenants. The Director has this authority pursuant to section 86 of the *Act* which states:

86. Order without hearing

Despite subsection 76(3), the Director may, without service on or notice to the other party, without attempting to mediate the matter and without holding a hearing, make an order under subsection 85(1) where

(a) the matter is urgent and involves the safety or security of a landlord, tenant or other person.

- [10] Until the Application is heard on November 7, 2023 and an Order is issued by the Rental Office, the Director takes the proactive measure to issue this Interim Order. The Landlord is prohibited from discontinuing and/or disconnecting the service of electricity/power to the Residential Property, pursuant to sub-subsection 85.(1)(p) of the *Act*, which states:

85. Powers of the Director

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

(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.

- [11] **Failure to comply with this Interim Order may result in an administrative monetary penalty pursuant to subsection 93. (1) of the Act.**

Conclusion

- [12] The Landlord is prohibited from discontinuing and/or disconnecting the service of electricity/power to the Residential Property.
- [13] Interim Order LD23-496 is in full force and effect until at least November 30, 2023 or earlier if varied by an Order of the Rental Office as a result of the November 7, 2023 hearing.
- [14] **Interim Order LD23-496 was served on the parties by email on October 25, 2023 and a copy will be provided to Maritime Electric.**

IT IS THEREFORE ORDERED THAT

- A. The Landlord is prohibited from discontinuing and/or disconnecting the service of electricity/power to the Residential Property.
- B. Interim Order LD23-496 is in full force and effect until at least November 30, 2023 or earlier if varied by an Order of the Rental Office as a result of the November 7, 2023 hearing.

DATED at Charlottetown, Prince Edward Island, this 25th day of October, 2023.

(sgd.) Jennifer L. Perry

Jennifer L. Perry
Director of Residential Tenancy

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.