

## Introduction

- [1] On August 21, 2023 the Tenant filed a *Tenant Application to Determine Dispute* (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application requests a determination that the Landlords failed to comply with the *Act*.
- [2] The Tenant is seeking remediation of the Residential Property's drinking water and \$657.19 in compensation.
- [3] All documents were properly served to the parties in accordance with subsection 100.(1) of the *Act*.
- [4] On October 17, 2023 a hearing was held at the Rental Office before a Residential Tenancy Officer (the "Officer"). The Tenant appeared, representing themselves. The Landlords appeared, representing themselves.

## Issues to be Decided

- i. Did the Landlords contravene the *Act*?
- ii. Is the Tenant entitled to compensation?

## Summary of the Evidence

- [5] In February 2017 the Tenant and the Landlords entered into a written month-to-month tenancy agreement for the Residential Property. The Residential Property is a mobile home owned by the Landlords. Rent is \$392.68 due on the first day of the month. No security deposit was required.

### Tenant's Evidence and Submissions

- [6] The Tenant submitted into evidence numerous photographs of the Residential Property, copies of receipts, written submissions, and a Boil Water Advisory dated July 21, 2023 by Environmental Health. The Tenant at the hearing submitted additional evidence, which included additional receipts accumulated after the evidence deadline, a written submission in response to the Landlords' evidence, and an updated water quality report dated October 10, 2023.
- [7] The Tenant testified that she is seeking compensation for not having access to drinkable water at the Residential Property for over six months. The Tenant testified that she has spent out of pocket \$509.19 in purchasing drinkable water. The Tenant testified that she is also seeking compensation in the amount of \$148.00 for out of pocket expenses for having to wash her clothes at the laundromat. The Tenant testified that the washing machine was included in the tenancy agreement. However, after the washing machine stopped working, the Landlords said that the Tenant can purchase their own, and put the responsibility on the Tenant.
- [8] The Tenant testified that is she concerned with the safety of the drinking water for the Residential Property. The Tenant testified that her children developed sickness due to what she believes was the condition of the water. The Tenant testified that the results over numerous testing are inconsistent, and that Environmental Health informed her that the water is not safe until two test results come back with a "0-0" result. The Tenant testified that it is the Landlords responsibility.
- [9] The Tenant testified that there were numerous issues with the Residential Property that require repair. The Tenant admitted that some of the work repairs and work has been completed. The Tenant testified that she is concerned about leaking, water damage and mold growing in the Residential Property. The Tenant testified that Environmental Health has not inspected the Residential Property.

**Landlords' Evidence and Submissions**

- [10] The Landlords submitted into evidence written submissions, copies of 24-hour notices given to the Tenant to enter the Residential Property, photographs, a copy of a report by a Safety Standards Officer from a water quality test on June 30, 2023 and a history of the test results provided by Environmental Health. The Landlords also submitted into evidence copies of e-mails with the Tenant and Environmental Health.
- [11] The Landlords testified that they do all the repairs themselves, and have completed a lot of the repairs which the Tenants disclosed in her submissions. The Landlords testified that there is a lot of miscommunication between the Tenant and Environmental Health. The Landlords testified that they have received different opinions about the safety of the water and what are the best options to have the water issue resolved. The Landlords testified that the well for the water was only shocked once. The Landlords testified that to purchase a UAV light, would cost \$1,500.00 without knowing if it will resolve the issue. The Landlords testified that they do not know what else can be done.
- [12] The Landlords testified that they provided the washing machine, but due to more people living in the Residential Property, it broke down faster than expected. The Landlords testified that they informed the Tenant to purchase her own washing machine and to take over that responsibility. The Landlords testified that the rent is cheap and they are frustrated.

**Analysis**

- [13] The Officer begins by referencing the relevant law for the Application. Subsections 21.(1) and 28.(1) of the *Act* 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.*
- 28. Obligation to repair and maintain**  
(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.*
- [14] The Application is seeking compensation for an alleged breach of the *Act*. In such applications, it is the person alleging the breach, in this case, the Tenant's burden or onus to prove, on a balance of probabilities, any all claims made in the Application.
- [15] The Officer has reviewed the documentary evidence submitted by the parties, and heard over two hours of oral testimony from the parties at the hearing. The Officer notes that there were concerns about the condition of the Residential Property. The Officer heard evidence and testimony that some of the work has been completed and other work is still required. The Officer's findings are as follows.

***Issue i: Did the Landlords contravene the Act?***

- [16] The Officer finds that the Tenant's evidence and testimony, along with the Landlords' rebuttal evidence and testimony provides a conclusion that the Landlords have contravened the *Act*. The Officer makes the following findings as it relates to the Landlords' contravention of the *Act*.
- [17] The Officer finds that the Landlords have contravened subsections 21.(1) and 28.(1) of the *Act*. The Officer finds that the Landlords breached subsection 21.(1) of the *Act* when they did not repair and/or replace the washing machine in the Residential Property. The Officer is satisfied on the evidence and testimony that the washing machine was the property of the Landlords and included in the tenancy agreement. The Landlords were not entitled under law to require or even request that the Tenant replace the washing machine at their own expense. The Landlords deciding not to repair and/or replace the washing machine has resulted in the Tenant incurring expenses which otherwise would have been included in the tenancy agreement. The Officer finds that the Tenant has established their claim.
- [18] Further, the Officer finds that the Landlords have breached subsection 28.(1) of the *Act*. The evidence establishes that the quality and safety of the water has been in question since at least May 2023. The quality and safety of the water remains in question as of the date of the hearing. The Officer finds that numerous quality tests have been completed since May 2023 (with varying results).
- [19] The Officer finds that it is the *responsibility* of the Landlords to take all reasonable steps to remediate the issue. The Landlords are responsible to contact the appropriate authorities and/or professionals and to follow the instructions and/or advice of the authorities and/or professionals. The Officer does not accept the Landlords' argument that there "*may have been a miscommunication between the Tenant and Environmental Health*." It is solely the responsibility of the Landlords to be the point of contact with Environmental Health and to take ensure that every reasonable step is taken to remedy the water issues. The Officer finds that the Tenant has established her claim.
- [20] It is the law that landlords are required to provide potable and safe water to their tenants. Section 8.1 of the *Public Health Act Rental Accommodation Regulations* states:

***8.1 Potable water***

*The owner of a dwelling unit, housekeeping unit, apartment or other rental accommodation to which these regulations apply shall provide hot and cold running potable water under adequate pressure in all kitchen and bathroom facilities in the dwelling unit, housing keeping unit, apartment or other rental accommodation.*

- [21] **Therefore, the Officer *requires* that the Landlords have Environmental Health do an onsite inspection of the Residential Property to ensure health, safety and housing compliance is met. The Landlords shall follow the instructions of Environmental Health and the Report it issues as a result of the onsite inspection. Further, the Officer orders that the Landlords *shall* take every reasonable step to ensure that the quality and safety of the water for the Residential Property is remediated forthwith.**

***Issue ii. Is the Tenant entitled to compensation?***

- [22] The Officer finds that the Landlords have contravened subsections 21.(1) and 28.(1) of the *Act*. The Officer finds that the Landlords have not taken reasonable steps to remediate the water quality issues on the Residential Property. The Officer finds that the Tenant has provided sufficient evidence to assist the Officer in reviewing the financial loss occurred due to the Landlords' contravention of the *Act*. The Officer finds that the Tenant is entitled to compensation in the total amount of \$657.19. The Officer notes that \$148.00 for the cost associated with washing clothes outside of the Residential Property (\$4.00 per day) and the cost associated with purchasing drinkable water for the Residential Property in the amount of \$509.19. The Application is allowed.

**Conclusion**

- [23] The Landlords shall pay the Tenant \$657.19 forthwith.
- [24] The Landlords shall request Environmental Health do an onsite inspection of the Residential Property to ensure health, safety and housing compliance. The Landlords shall follow the instructions of Environmental Health.
- [25] The Landlords shall take every reasonable step to ensure that the quality and safety of the water for the Residential Property is met *forthwith*. **The Officer suggests that the Landlords follow the instruction of Environmental Health and/or any authority and/or professional that Environmental Health recommends.**
- [26] **Failure to comply with this Order may result in administrative penalties.**

**IT IS THEREFORE ORDERED THAT**

- A. The Landlords shall pay the Tenant \$657.19 forthwith.
- B. The Landlords shall request Environmental Health do an onsite inspection of the Residential Property to ensure health, safety and housing compliance.
- i. The Landlords shall follow the instructions of Environmental Health.
- C. The Landlords shall take every reasonable step to ensure that the quality and safety of the water for the Residential Property is met *forthwith*.

**DATED** at Charlottetown, Prince Edward Island, this 2nd day of November, 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.