

Introduction

- [1] On September 5, 2023 the Landlord filed a *Landlord Application to Determine Dispute* (Form 2B) (the "Application") with the Residential Tenancy Office (the "Rental Office") seeking an order directing the Tenant pay outstanding rent and the disposal of the Tenant's personal property.
- [2] The Landlord is seeking **\$1,125.00** in outstanding rent. The parties agreed that the personal property of the Tenant was removed from the Residential Property. This part of the Application is no longer at issue.
- [3] All relevant documents (including the Notice of Hearing and Evidence Package) were properly served to the parties in accordance with subsection 100.(1) of the *Act*.
- [4] On October 24, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord appeared, representing themselves. The Tenant appeared, representing themselves.

Issue to be Decided

- i. Is the Landlord entitled to payment of outstanding rent?

Summary of the Evidence

- [5] In August 2020 the parties entered into a month-to-month tenancy agreement. The parties disputed whether the tenancy agreement was verbal or written. Rent was \$500.00 due on the 30th day of the month. No security deposit was required.

Landlord's Evidence and Submissions

- [6] The Landlord submitted into evidence two pages of evidence which include a rent ledger, and bank statements of rent paid.
- [7] The Landlord testified that the Tenant owes \$1,125.00 in outstanding rent. The Landlord submitted into evidence a breakdown of her calculations:
 - Monthly rent: \$500.00 x 8 months (January – August 2023) = **\$4,000.00**
 - Monthly payments:
 - January 2023 - \$800.00;
 - February 2023 - \$425.00;
 - May 2023 - \$500.00;
 - June 2023 - \$400.00;
 - **Total - \$2,875.00**
 - **Amount outstanding - \$1,125.00**
- [8] The Landlord testified that the Tenant vacated in June 2023, but he left a shed on the Residential Property. The Landlord testified that she is entitled to rent for the months that the Tenant left the shed on the Residential Property.
- [9] The Landlord testified to other issues as it relates to the Residential Property, and the fractured relationship with the Tenant.

Tenant's Evidence and Submissions

- [10] The Tenant did not submit any documentary evidence.
- [11] The Tenant testified that he did not leave any personal belongings in the rental unit. Any items that remain are the Landlord's son's personal items. The Tenant admitted to leaving a shed on the Residential Property, because of the complexity it took to remove; however, the shed was removed in September 2023. The Tenant testified that he does not owe the Landlord rent as the parties agreed that the vacate date would be June 30, 2023. The Tenant testified that he did vacate on June 30, 2023.
- [12] The Tenant testified to other issues in response to the Landlord's testimony. The Tenant testified that his last rent payment was June 30, 2023 in the amount of \$750.00.

Analysis

- [13] The Officer begins by referencing the relevant law for the Application. Subsections 43.(1), (2) and 85.(1)(b) of the Act state:

43. Tenant's personal property

- (1) *A tenant is not entitled to leave the tenant's personal property in the rental unit after the tenancy agreement is terminated.*

Abandoned personal property

- (2) *Where a tenant abandons or vacates a rental unit and leaves personal property on the residential property, the landlord shall either*
- (a) *remove the personal property and immediately place it in a safe storage;*
- or;*
- (b) *store the personal property on the residential property in a safe manner.*

85. Powers of the Director

- (1) *After hearing and 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.*

- [14] The Officer comments that in such matters where the Landlord makes a claim for unpaid rent, it is the Landlord's burden or onus to prove, on a balance of probabilities her claim.
- [15] The Officer notes that the Landlord is claiming \$1,125.00 in outstanding rent. The Landlord's calculations are that the Tenant owes arrears from past months, and July and August 2023 rent due to a shed and personal items remaining on the Residential Property.
- [16] The Officer finds that the undisputed testimonies of the parties establishes that the tenancy ended June 30, 2023. However, the Tenant's shed remained on the Residential Property until mid-September 2023. The Officer finds that the Tenant continued to use the Residential Property as a storage site for his shed. In such circumstances, the evidence suggests that the Tenant was Overholding, and continued to benefit from the use of the Residential Property. Subsection 74.(1) of the Act states:

74. Landlord entitled to compensation

- (1) *A landlord is entitled to compensation for a former tenant's use and occupation of the rental unit after the tenancy has been terminated.*

[17] Further, the *Act* defines *rental unit* and *residential property* in subsections 1.(o) and (p) of the *Act* as follows:

1. Definitions

In this Act,

- (o) ***“rental unit”*** means *living accommodations rented or intended to be rented to a tenant and, with respect to a person who rents or intends to rent a mobile home site for the person’s mobile home, including the mobile home site;*
- (p) ***“residential property”*** means
- ...
- (ii) *the parcel or parcels of land on which the building, related group of buildings or common areas are located,*
- (iii) *the rental unit and common areas.*

[18] The Officer finds that the Tenant’s personal property remained on the Residential Property after the end of the tenancy. The Officer finds that the Landlord is entitled to compensation for the Tenant’s continued use of the Residential Property. The Application is allowed. Therefore, the Officer finds that the Tenant must pay the Landlord outstanding rent in the amount of \$1,125.00. The calculations are as follows:

- Outstanding arrears as of June 30, 2023 = \$125.00;
- July 2023 rent = \$500.00; and
- August 2023 rent = \$500.00.
- **Total amount outstanding: \$1,125.00.**

Conclusion

[19] The Application is allowed.

[20] The Tenant shall pay the Landlord \$1,125.00 on or before November 30, 2023.

[21] **Order LD23-515 was served to the Landlord by mail and to the Tenant by e-mail.**

IT IS THEREFORE ORDERED THAT

A. The Tenant shall pay the Landlord \$1,125.00 on or before November 30, 2023.

DATED at Charlottetown, Prince Edward Island, this 7th 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.