

## Introduction

- [1] On October 16, 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:

*I am a former tenant and request compensation from my former Landlord for a bad faith eviction.*

- [2] Attached to the Application was an Eviction Notice (Form 4B) dated August 1, 2023, effective September 30, 2023, (the "Notice"). The Notice was served on the Tenants for the following reason:

*A buyer wants possession of the rental unit for: buyer*

- [3] On October 31, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). A Tenant and a Landlord participated.
- [4] All relevant documents (including the Notice of Hearing and Evidence Package) were properly served in accordance with subsection 100.(1) of the Act.

## Issue to be Decided

- i. Are the Tenants entitled to compensation for a bad faith eviction?

## Summary of the Evidence

- [5] In 2012 the Tenants and their previous landlord ("J.L.") entered into a verbal month-to-month tenancy agreement for the Residential Property. The Residential Property consists of one half of a duplex (the "Duplex"). Rent was \$934.00 per month and a security deposit of \$834.00 was paid. The Tenants vacated on September 30, 2023.

## Tenants' Evidence and Submissions

- [6] The Tenant submitted 13 pages of documentary evidence, including text messages between the Tenant and the Landlord and a copy of the Landlord's Affidavit.
- [7] The Tenant stated their previous landlord J.L. sent the Tenants a text stating that the Duplex was being sold and the Landlords planned to occupy both sides of the Duplex. J.L. served the Tenants with the Notice as well as the Landlords' Affidavit. The Tenant testified the Affidavit stated the Landlords were purchasing the Duplex and would be personally residing in the Duplex.
- [8] The Tenant stated the Tenants tried to find somewhere else to rent but were unable to find another suitable rental unit. The Tenant stated they were required to renovate a family member's basement so they had somewhere to live. He stated the Tenants had to pay for the renovations but are not required to pay rent. The Tenant stated he would send the Officer copies of the renovation receipts after the hearing. The Tenant stated he is requesting some form of compensation due to having to pay for the renovations. The Tenant stated that his former landlord did compensate him moving expenses and one month's rent.
- [9] The Tenant stated after the Tenants moved out they learned that both sides of the Duplex were advertised online as available to rent. The Tenant contacted the Landlord and asked about renting the units. The Landlord responded and told the Tenant both sides of the Duplex were available to rent. The Tenant stated the Tenants do not want to move back into the Residential Property.

### Landlords' Evidence and Submissions

- [10] The Landlord submitted 10-pages of documentary evidence, including a purchase and sale agreement, the Landlord's Affidavit, and medical records pertaining to the Landlord's mother.
- [11] The Landlord stated when he purchased the Duplex, the Landlords planned to live on one side (unit B) and then move the Landlord's parents into the Tenants' side (unit A). He stated the purchase and sale agreement shows that both the Landlords and the Landlord's parents were going to move into both sides of the Duplex.
- [12] The Landlord stated his mother became ill and they changed their mind about moving his parents in. When the Landlords moved into unit B on October 4, 2023, they became aware that the Tenants had been evicted. The Landlord stated it was not their plan to evict the Tenants as the Landlords had changed their plans regarding moving their parents into unit A. The Landlord stated that J.L. or her realtor made a mistake when they served the Tenants with the Notice and the Affidavit.
- [13] The Landlord stated after they moved in and found that the Residential Property was empty, the Landlords decided to advertise both sides of the Duplex for rent. He stated the condition of the Residential Property was not great and the Landlords would move into unit A of the Duplex if a renter wanted unit B, which was in better condition. The Landlord stated that is why he told the Tenant that both sides were available for rent when the Tenant contacted him.
- [14] The Landlord acknowledged that the Affidavit does not state the Landlords would only be moving into unit B. The Landlord stated that it was his lawyer's fault for drafting the Affidavit incorrectly. The Landlord stated that unit A has recently been re-rented to new tenants which will help the Landlords pay for their mortgage.

### Post Hearing Evidence and Submissions

- [15] After the hearing, the Tenant submitted copies of receipts for materials he purchased for the renovations at his family member's residence which totaled \$3,067.36.

### Analysis

#### Issue i: Are the Tenants entitled to compensation for a bad faith eviction?

- [16] The Officer begins by referencing the relevant law for the Application. Section 65.(1) of the *Act* states:
- (1) A former tenant may make an application to the Director under section 75 to determine whether a landlord gave a notice of termination under sections 62, 63 or 64 in bad faith.*
- [17] The Officer notes that in these types of applications it is the Tenants' responsibility, or onus to prove, on a balance of probabilities, their claim. The Application is requesting a finding that the Landlords evicted the Tenants in bad faith under section 63 of the *Act*, and, as a result, the Tenants would be entitled to compensation pursuant to subsection 65.(1) and (6) of the *Act*.
- [18] In this case, the Officer finds that the Tenants have not established that the Landlords have contravened the *Act*. The Officer finds that the evidence presented by the parties, specifically the Landlord's Affidavit, the purchase and sale agreement, and the medical records, establishes that the Tenants were not served a notice of termination in bad faith.

- [19] The Landlord stated the Landlords were going to move into unit B and the Landlord's parents were going to move into unit A. The Landlord stated his mother became ill and they decided not to move his parents into unit A. The Landlord stated the Tenants were served the Notice by J.L., without the Landlords' knowledge, and the Tenants had vacated before the Landlords moved into unit B. The Landlord stated the Tenants could have remained in unit A as the Landlords now require tenants in unit A to help pay their mortgage. The Tenants stated they do not want to move back into the Residential Property.
- [20] The Officer finds that the Tenants have not established that they were evicted in bad faith, and, as a result, the Tenants are not entitled to compensation. The Application is denied.

### Conclusion

- [21] The Application is denied.
- [22] Order LD23-526 was served on the parties by email on November 15, 2023.

### IT IS THEREFORE ORDERED THAT

- A. The Application is denied.

**DATED** at Charlottetown, Prince Edward Island, this 15th day of November, 2023.

(sgd.) Mitchell King

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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.