

Preliminary Matter

- [1] The Officer notes that the parties filed numerous applications with the Residential Tenancy Office (the "Rental Office") relating to different disputes. During the hearing, the Tenants disclosed that they found a new place to live, and intended to vacate the Residential Property by the end of November 2023. The Tenants and the Landlord agreed that the dispute over the *Eviction Notices* were no longer at issue, and all that remained at issue was the dispute over rent.
- [2] Docket No. 23-788 was the Tenants' application disputing an eviction notice. This is no longer at issue.
- [3] Docket 23-797 was the Landlord's application seeking possession of the Residential Property. This part of the application is no longer at issue and the Landlord had no objections to the Tenants vacating at the end of November 2023 (despite the outstanding rent concerns).
- [4] The parties agreed at the hearing that the remaining issues are the Tenants' request for compensation in the form of a return of rent (Docket No. 23-716) and the Landlord's request for rent owing (Docket 23-798).

Introduction

- [5] On September 19, 2023 the Tenants filed a *Tenant Application to Determine Dispute* (Form 2A) (the "Tenants' Application") with the "Rental Office. The Tenants' Application is seeking a return of rent (Docket No. 23-716).
- [6] The Tenants are seeking compensation in the amount of \$9,000.00 in rent returned and a finding that the Tenants are not responsible for paying October and November 2023 rent in the amount of \$3,600.00.
- [7] On November 6, 2023 the Landlord filed a *Landlord Application to Determine Dispute* (Form 2B) (the "Landlord's Application") with the Rental Office. The Landlord's Application is seeking outstanding rent owed in the amount of \$6,800.00 (Dockets No. 23-798).
- [8] All relevant documents (including the Notice of Hearing and Combine Evidence Package) were properly served in accordance with subsection 100.(1) of the *Act*.
- [9] On November 15, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenants appeared, representing themselves. The Landlord appeared, representing themselves.

Issues to be Decided

- i. Are the Tenants entitled to a return of rent?
- ii. Are the Tenants responsible for outstanding rent owed to the Landlord?

Summary of the Evidence

- [10] On September 1, 2021 the parties entered into a written fixed term tenancy agreement for the Residential Property. The agreement converted to a month-to-month agreement. Rent is \$1,800.00 due on the first day of the month. A security deposit of \$1,000.00 was required and paid.

Landlord's Evidence and Submissions

- [11] The Landlord submitted into evidence 9-pages of documents including (photographs, a written note, a copy of the *Eviction Notice* and a letter from pest control).

- [12] The Tenants did not pay rent for the months of October and November 2023. The Tenants' owe a total of \$6,800.00 in rent arrears.
- [13] The Landlord testified that he provided the Tenants spray for the infestation, and then had a pest control company do two sprays at the Residential Property. The Landlord is at the Residential Property regularly and did not receive any further complaints from the Tenants about the cockroaches. The Landlord testified that the rental unit is dirty and that the Tenants are not keeping the rental unit clean. The Landlord testified that the condition of the rental unit is causing the cockroach infestation to continue.
- [14] The Landlord denied being aware of a mold issue existing in the Residential Property. The Landlord disputed the Tenants' testimony that they lived in their camper between May and September 2023 due to the cockroach infestation.

Tenants' Evidence and Submissions

- [15] The Tenants submitted into evidence 75-pages of documents including (text message conversations, e-mails, a previous Rental Office order, an Environmental Health Report dated February 21, 2023 and October 13, 2023, photographs of the Residential Property, numerous *Eviction Notices*, and written notes.
- [16] The Residential Property has a mold and cockroach infestation, which has continued throughout the tenancy. The Landlord has known about the cockroach infestation since February 2023. The Tenants' testified that they informed the Landlord of the mold growing in the rental unit. The Landlord only did two sprays in the Residential Property, and the pest company recommended four or five sprays.
- [17] The Tenants denied the Landlord's allegation that the rental unit is dirty, and/or is the cause for the cockroach infestation. The Tenants testified that they followed the instructions from the pest control company and actively cleaned the rental unit and moved their personal items to the middle of each room.
- [18] Due to the cockroach infestation and mold in the Residential Property the Tenants mainly lived in their camper from May to September 2023, only using the rental unit for bathing and cooking.
- [19] The Tenants dispute owing the Landlord rent. The Tenants questioned how the Landlord came to his amount requested in the Landlord's Application. The Tenants testified that at times the parties agreed that some amount of money would be deducted from the rent for work done for the Landlord.
- [20] The Tenants' admit to not paying October and November 2023 rent because of the poor condition of the Residential Property. The Tenants are seeking an order finding them not responsible for October and November 2023 rent in the amount of \$3,600.00.
- [21] The Tenants are seeking a return of rent in the amount of \$9,000.00 for the months of May to September 2023. The Tenants argued that the Landlord did not take the cockroach infestation serious and the Tenants needed to live in their camper from May 2023 to September 2023.

Analysis

Issue i: *Are the Tenants entitled to a return of rent? And*

Issue ii: *Are the Tenants responsible for outstanding rent owed to the Landlord?*

- [22] The Officer begins by referencing the relevant law for the Tenant's Application. Subsection 28.(1) of the *Act* states:

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.*

- [23] Further, clause 9.(c) of the *Public Health Act Rental Accommodation Regulations* (the "*Public Health Act*") states:

9. Maintenance of premises

The owner of any dwelling shall, when necessary

...

- (c) *take necessary precautions and undertake necessary treatment to prevent or eliminate infestations by cockroaches, bedbugs, fleas, silverfish, weevils, flies, rats, mice and any or all pests.*

- [24] With regard to the Tenants' Application the Officer finds that the Tenants have established their claim for a return of rent. The Officer finds that the Landlord has contravened clauses 28.(1) of the *Act* and 9.(c) of the *Public Health Act*. The Officer comes to this finding based on the testimony of the Tenants as it relates to the timeline and the duration of the cockroach infestation, the Landlord's testimony as it relates to his response and actions taken, and the Environmental Health Reports dated February 21, 2023 and October 13, 2023. The Officer finds that the Landlord has not taken what the Officer would consider reasonable and/or consistent steps to remediate and/or eradicate the cockroach infestation. This responsibility is the sole duty of the Landlord pursuant to clauses 28.(1) of the *Act* and 9.(c) of the *Public Health Act*.
- [25] Further, the Officer notes that the Landlord argued that the rental unit was not clean and that the Tenants' lack of effort to keep the rental unit clean was a result of the on-going cockroach infestation. The Officer finds that he is not compelled by the Landlord's argument. The Landlord did not provide any evidence to substantiate this claim. As a result, the Officer finds that the Tenants' Application is allowed, in part.
- [26] The Officer notes that the Tenants acknowledged that they were vacating the Residential Property at the end of November 2023. As such the tenancy agreement will end on November 30, 2023. Despite the tenancy ending, the Officer finds that the Landlord shall take immediate steps to have a professional company begin and continue to remediate the Residential Property of the cockroach infestation, and mold problem.
- [27] In addition, the Officer finds that the Tenants are entitled to a return of rent in the amount of \$1,800.00. The Officer notes that the Tenants are seeking \$9,000.00, representing a return of rent from May to September 2023. The Officer finds that the evidence does not support such an extraordinary award. Further, the Officer finds that the Landlord did take some minimal steps in the remediation of the Residential Property during the summer months of 2023. Therefore, the Officer finds it appropriate in this case, to award the Tenants the amount of 1-month in rent returned.

- [28] The Officer also finds that the Tenants are not responsible for paying rent for October 2023 and November 2023. The Officer comes to this finding based on the overwhelming evidence provided by the Tenants, namely, the two Environmental Health Reports and the previous Order from the Rental Office requesting the Landlord to fix the cockroach issue.
- [29] As a result, the Officer finds that the Landlord's Application is denied. The Officer finds that the Tenants are not responsible for October and November 2023 rent. Further, the Officer finds that the Landlord has not provided sufficient evidence to assist in quantifying the remaining amount the Landlord is seeking.

Conclusion

- [30] The Tenants' Application is allowed, in part.
- [31] The Landlord shall take immediate steps to have a professional company begin and continue to remediate the Residential Property of the cockroach infestation and mold issue.
- [32] The Landlord shall return and pay the Tenants \$1,800.00 on or before December 21, 2023.
- [33] The Tenants are not responsible to pay October 2023 rent in the amount of \$1,800.00.
- [34] The Tenants are not responsible to pay November 2023 rent in the amount of \$1,800.00.
- [35] The tenancy agreement between the parties will terminate by agreement on November 30, 2023.
- [36] The Landlord's Application is denied.
- [37] **Order LD23-549 will be served on the parties by e-mail on November 24, 2023.**

IT IS THEREFORE ORDERED THAT

- A. The Landlord shall take immediate steps to have a professional company begin and continue to remediate the Residential Property of the cockroach infestation and mold issue.
- B. The Landlord shall return and pay the Tenants \$1,800.00 on or before December 21, 2023.
- C. The Tenants are not responsible to pay October 2023 rent.
- D. The Tenants are not responsible to pay November 2023 rent.
- E. The tenancy agreement between the parties will terminate by agreement on November 30, 2023.

DATED at Charlottetown, Prince Edward Island, this 24th 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.