

## Introduction

- [1] On November 27, 2023, the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The purpose of the Application is to request a return of rent due to an unlawful rent increase and to request compensation for moving costs pursuant to clause 85(1)(d) of the *Residential Tenancy Act* (the "Act").
- [2] All relevant documents (including the Application, Notice of Hearing, and Evidence Package) were properly served in accordance with subsection 100.(1) of the *Act*.
- [3] On February 27, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord and the Tenant participated in the hearing.
- [4] At the beginning of the hearing, the Officer clarified what the Tenant was seeking in her Application, as several items were selected on the Application. The Tenant stated she was seeking a return of rent due to an unlawful rent increase in the amount of \$1,400.00 and to request compensation for moving expenses in the amount of \$500.00.

## Issues to be Decided

- i. Is the Tenant entitled to a return of rent due to an unlawful rent increase?
- ii. Is the Tenant entitled to compensation for moving expenses?

## Summary of the Evidence

- [5] On November 1, 2018, the Tenant and the Landlord entered into a written month-to-month tenancy agreement for the Rental Unit which consisted of a room rental within a house (the "Residential Property"). The parties disagreed if rent was \$600.00 or \$700.00, however they agreed it was due on the 1st day of the month. A security deposit of \$700.00 was required and paid. The Tenant vacated on December 31, 2023.

### Tenant's Evidence and Submissions

- [6] The Tenant submitted several pages of documents into evidence including messages between the parties, an invoice, and written submissions. The Tenant stated between November 2018 and January 2020, she was charged \$700.00 per month for rent but her rent should have been \$600.00 per month. She is seeking reimbursement of 14 months of an unlawful rent increase totaling \$1,400.00.
- [7] The Tenant stated she and the Landlord initially agreed to rent of \$600. The Tenant sent the Landlord a tenancy agreement to sign before she moved in but it was never signed. The Landlord changed his mind and gave the Tenant a different rental agreement for \$700.00 per month. The Tenant signed it because it is hard to find places to live. Starting January 2020, the Landlord dropped the rent to \$600.00 per month but did not provide a reason. She stated she saw the Landlord's rental ledger and no other tenants have ever paid \$700.00 per month for the Rental Unit.
- [8] The Tenant stated the Landlord's claim that the Tenant worked for the Landlord for a discount in rent is not true. She stated she does work around the property because she lives there. The Landlord also wanted her to provide receipts for a tax deduction but she refused to provide receipts or work for the Landlord. She stated she called Environmental Health to inspect the property and then she received an eviction notice on November 8, 2023, for non-payment of rent. She stated the Landlord wanted her to start paying \$700.00 for rent but she would not pay it. She stated the eviction notice was retaliation for calling Environmental Health.

- [9] The Tenant stated she is requesting \$500.00 in compensation for moving costs due to the eviction. She stated she had to borrow money to be able to move. She stated she decided to move and not dispute the eviction because the Landlord also lived at the Residential Property and the Landlord harassed and threatened her while she lived in the rental unit.

### **Landlord's Evidence and Submissions**

- [10] The Landlord submitted several documents into evidence including messages between the parties and copies of e-transfer notices. The Landlord stated he never agreed to \$600.00 per month and wrote a tenancy agreement for \$700.00 per month, which the Tenant signed. Since the Tenant did work around the Residential Property for the Landlord, the Landlord discounted the Tenant's rent \$100.00 per month. He stated the Tenant was also provided exclusive access to an extra room that she turned into a kitchenette that previous tenants did not have access to.
- [11] The Landlord stated the e-transfer notices submitted into evidence show the Tenant only paid \$600.00 per month. He did ask for receipts for the \$100.00 per month of work she performed but she did not provide them and he never claimed this on his taxes. The Landlord stated the Tenant threw out some items without the Landlord's permission, so the Landlord told the Tenant he no longer wanted her to perform work for him and requested she pay the full \$700.00 for rent, but she never did.
- [12] The Landlord served the Tenant with an eviction notice for failing to pay the full rent of \$700.00 but she did pay the \$700.00 eventually. He returned the extra \$100.00 after consulting with the Rental Office and considers the eviction notice void because she did pay the rent.
- [13] The Landlord stated the parties agreed the Landlord could retain the security deposit for the last month's rent. The Landlord kept \$600.00 for rent and returned \$100.00 to the Tenant. The Landlord stated the Tenant vacated by her own choice and sent him an email as her notice to him. He disputed that he should have to pay for any moving costs to the Tenant.

### **Analysis**

- [14] The Application is made pursuant to section 75 of the *Act*. In such applications it is the person making the claim that has the burden to prove, on a balance of probabilities, any and all claims made. This means that the party must provide the decision-maker sufficiently clear and convincing evidence to prove their claim(s). The relevant law is as follows:

**50.8** *Where a landlord collects a rent increase that does not comply with this part, the tenant may make an application to the Director under section 75 to recover the amount of the increase.*

**85. Powers of the Director**

(1) *After hearing an 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;*

(d) *requiring a landlord to compensate a tenant or a tenant to compensate a landlord for loss suffered or expense incurred as a result of a contravention of this Act or the tenancy agreement.*

**Issue i: Is the Tenant entitled to a return of rent due to an unlawful rent increase?**

- [15] The Landlord stated he discounted rent \$100.00 per month for work performed by the Tenant, reducing the rent from \$700.00 to \$600.00. The e-transfer notices provided by the Landlord confirm that the Tenant only paid \$600.00 per month for rent. However, the Tenant testified that she did not perform any work for the Landlord for a reduction in rent. In one of the Tenant's written submissions she stated she paid her rent "*as usual for the amount of 600\$ as I have been doing for the past 3.5 years.*"
- [16] The Officer notes that although the Landlord may have stated rent was \$700.00 and he was discounting rent \$100.00 per month for work performed by the Tenant, the Officer finds that the parties had conflicting testimony on the nature of the work. The Landlord stated the Tenant was performing property management type duties on his behalf and that is why he discounted the rent. The Tenant stated she was just doing things around the property because she lived there and there was no agreement with the Landlord.
- [17] Based on the evidence submitted and the testimony of the parties, the Officer does not find that the Tenant has provided sufficient evidence to establish that there was an unlawful rent increase or that she paid any additional rent above \$600.00 during her tenancy. The Officer finds the Tenant is not entitled to a return of rent and this part of the Application is denied.

**Issue ii: Is the Tenant entitled to compensation for moving expenses**

- [18] The Tenant is seeking \$500.00 in compensation for moving expenses as a result of being evicted by the Landlord. The parties disagreed whether the Tenant left as a result of the eviction notice or if the Tenant decided to leave on her own.
- [19] The Officer notes the *Act* only requires a landlord to provide compensation to a tenant if they are evicted for repairs/renovations (S.70), demolition/conversion (S.71), or landlord/purchaser use (S.72). If the Tenant left pursuant to the eviction notice, which was served for non-payment of rent, then the Landlord would not be required to provide the Tenant with compensation for moving expenses. In the alternative, if the Tenant left on her own, there is no requirement in the *Act* for the Landlord to provide compensation for moving expenses to the Tenant.
- [20] Based on the evidence submitted and the testimony of the parties, the Officer does not find that the Tenant has provided sufficient evidence to establish that the Landlord has contravened the *Act* or the tenancy agreement or that she is entitled to compensation for moving expenses. This part of the Application is denied.

**Conclusion**

- [21] The Application is denied.

**IT IS THEREFORE ORDERED THAT**

- A. The Application is denied.

**DATED** at Charlottetown, Prince Edward Island, this 14th day of March, 2024.

(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.