

Introduction

- [1] On March 4, 2024, the Landlord filed a *Landlord Application to Determine Dispute* (Form 2(B)) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed *ex parte* by the Landlord pursuant to clause 43(6) of the *Residential Tenancy Act* (the "Act").
- [2] The Landlord submitted into evidence an itemized list and a video of the items abandoned by the Respondent.
- [3] The Landlord served the itemized list to the Respondent pursuant to clause 43(5) of the *Act* on February 26, 2024.
- [4] On March 15, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord appeared, representing himself. The Respondent did not appear as the Application was made *ex parte*.

Issue to be Decided

- i. Is the Landlord entitled to an order permitting the disposal of the listed personal belongings of the Respondent?

Summary of the Evidence

- [5] In November 2022, the Landlord and C.W. entered into a written fixed-term tenancy agreement for the Rental Unit, which is located in a four-unit building (the "Residential Property"). Rent was \$1,180.00 due on the first day of the month. A security deposit was paid but the Landlord could not remember how much it was.
- [6] The Respondent had moved into the rental unit with C.W. in the summer of 2023 without the Landlord's permission. C.W. vacated the Rental Unit pursuant to an eviction notice around January 20, 2024. The Respondent did not vacate the rental unit when C.W. vacated. The Respondent was evicted from the Rental Unit pursuant to Order LD24-045 on February 21, 2024.

Landlord's Evidence and Submissions

- [7] The Landlord submitted into evidence a video and an itemized list of the abandoned personal property. On February 24, 2024, the Landlord transported the Respondent's personal property to a secure storage unit.
- [8] The Landlord stated C.W. did retrieve her personal items that she had left in the Rental Unit. The Landlord emailed the Respondent the itemized list of the property on February 26, 2024, but the Respondent has never replied or contacted the Landlord about retrieving the property.

Analysis

- [9] Subsection 43(2)(a) and (b) of the *Act* states:

Where a tenant abandons or vacates a rental unit and leaves personal property on the residential property, the landlord shall either

*remove the personal property and immediately place it in safe storage; or
store the personal property on the residential property in a safe manner.*

[10] Subsection 43(4) of the *Act* states:

The personal property required to be stored under subsection (2) shall be stored for not less than one month or a lesser period ordered by the Director, unless the tenant takes possession of the personal property before the applicable period has elapsed.

[11] The *Act* states:

43.(7) The Director may, on application by a landlord under section 75, authorize the landlord to dispose of personal property referred to in subsection (2) prior to the end of the applicable storage period required under subsection (4) where the Director believes on reasonable grounds that

- (a) the personal property has no monetary value;*
- (b) the cost of removing, storing or selling the personal property would be more than the proceeds of the sale; or*
- (c) the storage of the personal property would be unsanitary or unsafe.*

43.(8) The tenant or owner of the personal property may, within the one-month period referred to in subsection (4), claim and take possession of the personal property by paying the landlord the costs reasonably incurred by the landlord to remove and store the property.

43.(9) Where a tenant or owner of the personal property takes possession of personal property within the applicable period required under subsection (4), the landlord shall notify the Director at the earliest reasonable opportunity.

[12] The Officer notes subsections 43.(8) and 43.(9) speak about the “tenant” or “owner” of the personal property. The Officer finds that although there is no tenancy agreement between the Landlord and the Respondent, the Landlord is still able to deal with abandoned personal property of a non-tenant pursuant to the *Act*.

[13] The Officer has reviewed the inventory list, video, and considered the testimony from the Landlord. The Officer finds that the personal property has been safely stored in either the Rental Unit or in secure storage since February 22, 2024.

[14] Therefore, the Officer allows the Application. The Respondent has until 1:00 p.m. on March 22, 2024, to collect the personal property. If the Respondent fails to collect the personal property by the time and date mentioned above the Landlord may dispose the listed item through the solid waste disposal system any time after 1:00 p.m. on March 22, 2024.

Conclusion

[15] The Application is allowed.

[16] The Respondent has until 1:00 p.m. on March 22, 2024, to contact the Landlord to arrange a time to collect and remove the personal property listed in the inventory list.

[17] The Landlord may dispose of the personal property listed in the inventory list through the solid waste disposal system any time after 1:00 p.m. on March 22, 2024.

IT IS THEREFORE ORDERED THAT

- A. The Landlord may dispose of the personal property listed in the inventory list through the solid waste disposal system any time after 1:00 p.m. on March 22, 2024.

DATED at Charlottetown, Prince Edward Island, this 19th day of March, 2024.

(sgd.) Mitchell King

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.