

Introduction

- [1] On February 7, 2024 the Landlord filed a *Landlord Application to Determine Dispute (Form 2(B))* with the Residential Tenancy Office (the "Rental Office") seeking a monetary order for rent owing, furnace oil, cleaning, property removal costs, damage, and retention of the security deposit (the "Application").
- [2] On February 14, 2024 the Rental Office emailed the parties the Application and notice of a teleconference hearing scheduled for 9:00 a.m. on March 14, 2024.
- [3] On March 4, 2024 the Rental Office emailed the parties an evidence package. Only the Landlord had submitted documentary evidence to the Rental Office.
- [4] On March 12, 2024 the Rental Office telephoned the Tenant and left a voicemail message with instructions for participating in the teleconference hearing.
- [5] On March 14, 2024 the Residential Tenancy Officer (the "Officer") and the Landlord participated in the scheduled teleconference hearing. The Tenant did not join the hearing at 9:00 a.m. The Rental Office telephoned the Tenant at 9:05 a.m. but there was no response. The Rental Office left a voicemail message with instructions for participating in the teleconference hearing. The Officer waited until 9:10 a.m. before proceeding with the hearing in the absence of the Tenant. The hearing concluded at 10:03 a.m. without participation by the Tenant.
- [6] The Landlord was permitted to submit additional documents after the hearing. Other documents submitted by the Landlord to the Rental Office prior to the hearing were also added to the record.

Issue to be Decided

- i. Has the Landlord established valid claims for rent owing, furnace oil, cleaning, property removal costs, damage, and retention of the security deposit?

Summary of the Evidence

- [7] The Landlord's evidence is summarized as follows. The Unit is a two-bedroom, one-bathroom single family dwelling that the Landlord has owned for approximately ten years.
- [8] In 2017 or 2018 the Tenant moved into the Unit and paid a \$700.00 security deposit. During the Tenant's occupancy of the Unit the parties have entered into a number of agreements, with the most recent being a fixed term tenancy agreement. In 2023 the monthly rent for the unit was \$835.00, due on the first day of the month. The rent was increased to \$860.05 effective January 1, 2024.
- [9] On January 4, 2024 the Landlord hand delivered and text messaged the Tenant an *Eviction Notice (Form 4(A))* dated January 4, 2024 for effect on January 24, 2024 (the "Notice"). The Landlord sought termination of the tenancy for non-payment of January 2024 rent, repeatedly late rent payments and failure to comply with a material term of the tenancy agreement. The Tenant retained control of a key to the Unit until January 30, 2024.
- [10] The Landlord reviewed the Tenant's recent rent history and provided the following payment information:
 - September 2023 rent – \$600.00 paid on September 1, 2023 and \$235.00 on September 11, 2023
 - October 2023 rent – \$835.00 paid on October 10, 2023
 - November 2023 rent – \$835.00 paid on November 2, 2023

- December 2023 rent – \$835.00 paid on December 4, 2023
- January 2024 rent – \$0.00 paid

- [11] The Landlord paid the cost of filling the furnace oil tank when the Tenant first moved into the Unit. At the end of the tenancy the Tenant was supposed to fill the tank but instead the tank was left empty. On January 9, 2024 the Landlord paid \$1,136.40 to fill the furnace oil tank.
- [12] The Landlord provided testimony and documentary evidence regarding cleaning, personal property removal costs and damage due to the actions of the Tenant and his pet.

Analysis and Conclusion

- [13] The Landlord was unsure of the exact date in 2017 or 2018 that the Tenant moved into the Unit. The Officer has calculated interest on the \$700.00 security deposit for the period of January 1, 2017 to March 26, 2024, in the amount of \$52.70 (entire security deposit amount of \$752.70).
- [14] The Landlord's evidence establishes that the Tenant did not pay January 2024 rent. The Tenant retained access to the Unit until January 30, 2024 and moved out due to the Notice. The Officer finds that the Tenant is responsible for prorated rent for the period of January 1 to 30, 2024 in the amount of \$832.31 (30 days divided by 31 days and multiplied by \$860.05). The Landlord's evidence also establishes that the Tenant was required to fill the furnace oil tank at the end of the tenancy but failed to do so. The Landlord has established a claim against the Tenant regarding the furnace oil for \$1,136.40.
- [15] The Officer is satisfied by the evidence submitted by the Landlord that: (1) the Tenant did not leave the Unit in a state of ordinary cleanliness; (2) the Landlord will incur removal costs for the personal belongings left by the Tenant; and (3) the Tenant caused damage beyond normal wear and tear. The total amount claimed by the Landlord in the Application was \$4,010.00. After deducting the rent owing (\$832.31) and furnace oil cost (\$1,136.40), the balance of the amount claimed is \$2,041.29. The Officer has reviewed the Landlord's testimony and documentary evidence and is satisfied that the Tenant is responsible for cleaning, property removal and damage expenses in the amount of \$2,041.29.
- [16] As noted above, in the Application the total amount claimed against the Tenant was \$4,010.00 and the Tenant did not participate in the Rental Office hearing. In this decision it would not be procedurally fair for the Officer to award an amount against the Tenant above the total amount claimed in the Application.
- [17] The Application is allowed. The Landlord will retain the Tenant's entire security deposit, in the amount of \$752.70. The Tenant must also pay the Landlord the amount of \$3,257.30 by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The Landlord will retain the Tenant's entire security deposit, in the amount of \$752.70.
2. The Tenant must pay the Landlord the amount of \$3,257.30 by April 15, 2024.

DATED at Charlottetown, Prince Edward Island, this 26th day of March, 2024.

(sgd.) Andrew Cudmore

Andrew Cudmore
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.