

## Introduction

- [1] On February 29, 2024, 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 to request a return of rent as a result of a reduction in services and to request those services to be restored pursuant to clause 85(1) of the *Residential Tenancy Act* (the "Act").
- [2] All documents (including the Application, the *Notice of Hearing* and the *Evidence Package*) were properly served pursuant to clause 100(1) of the *Act*.
- [3] On March 14, 2024, at 9:00 a.m. a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenants participated in the hearing however the Landlord did not participate. The Officer waited until 9:07 a.m. and started the hearing. The Landlord did not call in to the hearing at any time.

## Issue to be Decided

- i. Are the Tenants entitled to a return of rent and to a restoration of services?

## Summary of the Evidence

- [4] In April of 2021, the Tenants and a previous landlord entered into a written month-to-month tenancy agreement for the Rental Unit. In 2023 the Landlord purchased the building (the "Residential Property") containing the Rental Unit and the tenancy agreement continued between the parties. Rent is \$1,200.00 due on the first day of the month. A security deposit of \$1,200.00 was paid.

## Tenants' Evidence and Submissions

- [5] The Tenants testified that the previous landlord provided the Tenants with 2 4K DVR receivers with the Bell Fibe TV Digital Advantage TV (4K) package and Fibre Op internet. On February 1, 2024, the Landlord disconnected these services. The Tenants had no cable or internet for 19 days and on February 19, 2024, the internet and cable were reconnected. The Landlord did offer to reduce the February rent by \$50.00 for the loss of service but this did not occur.
- [6] The Tenant stated when the services were restored, the internet was the same but the cable service was reduced. The Tenants were only given one receiver and a basic tv package. When the Tenants spoke to the Landlord about the reduced service, the Landlord stated the tenancy agreement only stated he was required to provide cable and internet, but not to what degree. The Tenants are requesting to have their cable service restored to the Digital Advantage TV package and to have two 4K HDMI DVR receivers. They stated they do not enjoy the reduced cable service as much as the previous service they had.
- [7] The Tenants stated they are also seeking a return of rent for the time their services were terminated and reduced. They are seeking \$150.00 for the 19 days in February 2024 when they had no internet or cable and because their cable package was reduced. They are seeking \$107.00 for March 2024 because their cable package was reduced and believe this is the difference between their previous tv package and their current tv package.

### Landlord's Evidence and Submissions

- [8] The Landlord did not participate in the hearing but he did submit three copies of the same email exchange with the Tenants as well as a copy of the tenancy agreement. In the email exchange the Landlord stated the services would be restored on February 19<sup>th</sup> and he would reduce the rent by \$50.00 for the days the Tenants were without services. The tenancy agreement is dated March 24, 2021, and it states that "TV Service" and "Cable Hook Ups" are included services, but not to what degree.

### Analysis

#### Are the Tenants entitled to a return of rent and to a restoration of services?

- [9] The Application is made in accordance 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:

#### **21. Terminating or restricting services or facilities**

- (1) A landlord shall not terminate or restrict a service or facility if
- (a) the service or facility is reasonably related to the tenant's use and enjoyment of the rental unit as living accommodation; or
  - (b) the service or facility is a term of the tenancy agreement.
- (2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord
- (a) gives one month's written notice, in the approved form, of the termination or restriction; and
  - (b) Reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

#### **85. Powers of the Director**

- (1) After hearing an application, the Director may make an order
- (c) requiring a landlord or tenant who has contravened an obligation of a tenancy agreement to comply with or perform the obligation;
  - (i) directing a landlord to pay to a tenant an amount as compensation for inconveniences as a result of a contravention of this *Act* or the tenancy agreement, and authorizing the tenant to offset that amount against future rent.
- [10] The Officer finds that the Tenants have provided sufficient evidence, specifically the undisputed testimony of the Tenants, the submitted text messages between the parties, and the submitted copy of the tenancy agreement, to establish that the Landlord has contravened subsection 21.(1) of the *Act* by terminating and restricting the Tenants' internet and cable services in February and March 2024.
- [11] The Officer finds the Tenants are entitled to a return of rent totaling \$257.00 (\$150.00 + \$107.00) for the loss and reduction of internet and cable services in February and March 2024. The Officer also finds that the Tenants are entitled to their request to have the cable service restored to the same level as it was before the service was reduced, back to the Digital Advantage TV package with two 4K HDMI DVR receivers.
- [12] The Officer comes to this conclusion as the Tenants have established the cable service is reasonably related to the Tenants use and enjoyment of the rental unit. The Tenants also established that cable service is a term of the tenancy agreement and the previous landlord provided the Tenants with the Digital Advantage TV package with two 4K HDMI DVR receivers.

- [13] No evidence was submitted establishing that the internet or cable service was a service other than one referred to in subsection 21.(1) of the *Act*, or that the Landlord had provided the Tenants with one month's written notice of a reduction of the services, or that rent had been reduced as a result of the reduction of the services.
- [14] The Officer notes that the Landlord's position is that the tenancy agreement only states he is required to provide cable service to the Tenants and it does not state to what degree. However, the Officer finds that the Digital Advantage TV package with two 4K HDMI DVR receivers was provided by the previous landlord and when the Landlord took over the tenancy agreement, he is required to provide the same level of service to the Tenants until the service can be legally changed pursuant to the *Act*. Therefore, the Application is allowed.

### Conclusion

- [15] The Application is allowed.
- [16] The Landlord shall credit the Tenants' May 2024 rent in the amount of \$257.00.
- [17] The Landlord shall reinstate the Tenants' cable service to the Digital Advantage TV package with two 4K HDMI DVR receivers forthwith.
- [18] This Order will be served on the parties by e-mail.

### IT IS THEREFORE ORDERED THAT

- A. The Landlord shall credit the Tenants' May 2024 rent in the amount of \$257.00.
- B. The Landlord shall reinstate the Tenants' cable service to the Digital Advantage TV package with two 4K HDMI DVR receivers forthwith.

**DATED** at Charlottetown, Prince Edward Island, this 5th day of April, 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.