

Introduction

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On February 21, 2024 the Tenant filed a *Tenant Application to Determine Dispute (Form 2(A))* (the “Tenant’s Application”) with the Residential Tenancy Office (the “Rental Office”) seeking a monetary order for a return of rent in the amount of \$4,000.00. However, at the hearing, the Tenant amended the amount to \$3,000.00.
- [3] On April 11, 2024 the Rental Office e-mailed the parties notice of a teleconference hearing.
- [4] On April 23, 2024 the Rental Office e-mailed the parties an evidence package. The evidence package contains 164-pages of documents submitted by the parties, along with 3 videos submitted by the Tenant.
- [5] On April 24, 2024 the Landlords submitted 4-pages of additional evidence accepted by the Residential Tenancy Officer (the “Officer”). The Rental Office e-mailed the additional evidence to the Tenant.
- [6] On April 25, 2024 the Landlords filed (and served the Tenant via e-mail) a *Landlord Application to Determine Dispute (Form 2(B))* (the “Landlords’ Application”). The Landlords’ Application seeks a monetary order for \$400.00 for outstanding internet bills. Attached to the Landlords’ Application was 13-pages of additional evidence. The Tenant submitted 1-photograph as additional evidence.
- [7] On April 25, 2024 at 1:00 p.m. a teleconference hearing was held before the Officer. The Tenant and the Landlords participated. The parties confirmed receipt of all the documentary and video evidence (including the evidence package and additional evidence). The parties were prepared to proceed with hearing both the Tenant’s Application and the Landlords’ Application at the hearing.

Issues to be Decided

- i. Is the Tenant entitled to a return of rent?
- ii. Are the Landlords entitled to compensation for unpaid internet bills?

Summary of the Evidence

- [8] The Rental Unit is situated in a basement apartment above the Landlords’ residential property (the “Residential Property”). In July 2023 the parties entered into an oral, month-to-month tenancy agreement. Rent was \$1,000.00 due on the first day of the month. The Tenant was also responsible for \$60.00 each month for internet. A security deposit of \$1,000.00 was paid.
- [9] On February 28, 2024 the Tenant served the Landlords a *Tenant Notice of Termination (Form 3)*. The Tenant vacated the Rental Unit on March 31, 2024. The Landlords returned the Tenant’s security deposit.

Tenant’s Evidence and Submissions

- [10] The Tenant submitted 9-pages of documents into evidence including: a written submission from his support worker, photographs, and messages between the parties. The Tenant submitted three videos into evidence, and one photograph as additional evidence.
- [11] The Tenant stated that he is seeking \$3,000.00 in return of rent for January, February and March 2024. The Tenant stated that when he moved into the Rental Unit, he believed he would receive his own appliances, and complete privacy. The Tenant stated that the Landlords’ verbally promised him they would provide his own private entrance to the Rental Unit by end of October 2023.

- [12] The Tenant stated that on numerous occasions the Landlords and their family members would enter the Rental Unit without notice. The Tenant stated that on numerous occasions plumbers and electricians would enter the Rental Unit without the Landlords giving him notice. The Tenant stated that the professionals would often be surprised when he informed them there was a Rental Unit in the Residential Property.
- [13] The Tenant stated that additionally to the lack of privacy, the Rental Unit was not properly heated and maintained. The Tenant stated that there was a large hole in the ceiling, the floors were torn up, no insulation caused the Rental Unit to lose its heat, and that it took 4 and a half months to fix. The Tenant stated that this response time was not reasonable. The Tenant stated that he did not have full use or enjoyment to the Rental Unit, often having to live with his girlfriend.
- [14] The Tenant stated that during an inspection in March 2024, the project manager for the hired contracting company told him that the delays were because of the Landlords. The Tenant responded to the Landlords' testimony (see below) by denying that he denied the contractors access to the Rental Unit. The Tenant stated that on February 17, 2024, was the only time he denied access to the Rental Unit.
- [15] The Tenant stated that his personal belongings were damaged and stolen in the Rental Unit.
- [16] The Tenant responded to the Landlords' Application by stating he told the Landlords orally he did not want the internet in October or November 2023. The Tenant stated that the Landlords changed the internet password, and he did not know it, so he could not use the internet even if he had wanted to. The Tenant stated that the Landlords returned his security deposit, and why would they not keep a portion of the security deposit to cover this cost. The Tenant stated that he did not want the internet, and did not have access to the internet so he should not be responsible for the expense.

Landlords' Evidence and Submissions

- [17] The Landlords submitted 142-pages of documents into evidence including: a written submission, text messages between the parties, e-mails between the parties, and the support worker, a copy of the *Form 3*, e-mails between the Landlords and the Project Manager from First on Site, photographs, an inspection report, a compensation settlement agreement between the Tenant and First on Site, a clarification from the Landlords' written submission, an invoice, and updated photographs of the Rental Unit.
- [18] The Landlords submitted 4-pages of additional evidence including: a written submission and text messages between the parties.
- [19] Attached to the Landlords' Application was 13-pages of evidence including: Eastlink bills from September 2023 to February 2024, and a 7-page written submission.
- [20] The Landlords stated that there are a lot of inconsistencies with the Tenant's testimony. The Landlords denied entering the Rental Unit without notice. The Landlords stated that they always communicate with the Tenant before entering the Rental Unit. The Landlords submitted numerous copies of text messages into evidence.
- [21] The Landlords stated that in September 2023 there was a slow leak from the dishwasher upstairs. The Landlords stated they called their insurance and the issue was attended to immediately. The Landlords stated that in November 2023 a small portion of the ceiling and drywall was tore down. The Rental Unit was still livable, as it one only one side of a wall in one of the three rooms. The Landlords stated that they tried to work with the Tenant and accommodate him. The Landlords stated that the Rental Unit is heated from under the floor. The Landlords stated that despite the renovations and repairs, the heating was not affected. The Landlords stated that the Tenant was compensated by First on Site for the damage to his personal items.

- [22] The Landlords stated that the Tenant knew there was no appliances, and denied making oral promises to the Tenant about providing appliance. The Landlords questioned the Tenant's testimony that he was not living in the Rental Unit in December 2023. The Landlords stated that there are numerous text messages submitted into evidence that suggest the Tenant was living in the Rental Unit in December 2023. The Landlords stated that the text messages submitted into evidence suggest that the Tenant was living in the Rental Unit until March 2024.
- [23] The Landlords stated that they are responsive landlords. The Landlords stated that they could not control the professional's schedule and that there were numerous delays caused by the Tenant. The Landlords stated that the total repairs took two weeks to complete, and that the Tenant should not be entitled to a return of rent. The Landlords stated that the Tenant caused delays and the Rental Unit was habitable during the repairs.
- [24] The Landlords stated that the Tenant owes \$400.00 in outstanding internet bills. The Landlords stated that the Tenant agreed to \$60.00 a month for internet. The Landlords stated that after the Tenant did not pay September or October 2023 internet, they texted the Tenant in November 2023 reminding him of the internet. The terms of the tenancy were \$60.00 for internet. The Landlords stated that he owes \$400.00 from September 2023 to March 2024. The Landlords stated that there were some deductions in the Tenant's internet bill because the Tenant did some work for the Landlords.

Analysis

Issue i: Is the Tenant entitled to a return of rent?

- [25] The Tenant's Application is made in accordance with clause 75 of the Act. The Tenant's Application seeks a monetary order for a return of rent for January, February and March 2024 as compensation for the Landlords' breaching the Act. The relevant provisions of the Act are as follows:

22. Tenant's right to quiet enjoyment

A tenant is entitled to quiet enjoyment of the rental unit including, but not limited to, the right to

- (a) reasonable privacy;*
- (b) freedom from unreasonable disturbance*
- (c) exclusive possession of the rental unit, subject only to the landlord's right to enter the rental unit in accordance with section 23¹; and*
- (d) use of common arears for reasonable and lawful purposes, free from significant interference.*

28. Obligations 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.*

- [26] The Tenant initiated the Tenant's Application under the Act. The Tenant bears the onus of proving his claim on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear, convincing and cogent evidence to support the claim(s) and the value of the alleged damage(s).

¹ Section 23 outlines a landlord's right to enter rental unit restricted.

- [27] The Tenant claims that the Landlords breached his right to quiet enjoyment, privacy and failed to repair and maintain the Rental Unit in a reasonable timeframe. The Tenant claims that the Rental Unit was not habitable, resulting in him having to live elsewhere for a period of time. The Tenant is seeking \$3,000.00 in return of rent for compensation for the Landlords' alleged breaches of the Act.
- [28] The Officer finds that the Tenant has not provided sufficient evidence to establish his claim(s). The Officer notes that the Landlords' denied the Tenant's allegations. The Officer finds that the Landlords provided documentary evidence showing the regular communication between the parties, and the efforts put forward to repair the Rental Unit. The Officer finds that the Landlords are not responsible for the delays or wait times from the professional contractors. The Officer finds that Tenant has not provide objective evidence to establish the Landlords' were the reason for any delays, and/or that the Landlords made any promises at the beginning of the tenancy regarding appliances and private entry to the Rental Unit. Further, the Officer finds that the Tenant has not established that the Rental Unit was not habitable before and/or during the repairs. Therefore, the Tenant's Application for return of rent is denied.

Issue ii: Are the Landlords entitled to compensation for unpaid internet bills?

- [29] The Landlords initiated the Landlords' Application under the Act. The Landlords bears the onus of proving their claim on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear, convincing and cogent evidence to support the claim(s) and the value of the alleged damage(s).
- [30] The Officer finds that the Landlords have provided sufficient evidence to establish that at the beginning of the tenancy, the parties agreed that the Tenant would pay \$60.00 a month for internet. The Officer notes that the Landlords submitted into evidence numerous text message conversations between the parties.
- [31] The Officer finds that despite the Tenant's testimony that he did not want the internet any longer, and that the Landlords changed the internet password, it was still a responsibility of the Tenant under the tenancy agreement. The Officer finds that the Tenant had the right under the tenancy to use the internet at any point, and if the password was changed, was entitled to request the updated password. However, the Tenant still was responsible for the cost his share of the internet. The Officer finds that the Landlords' Application is allowed, and the Tenant shall pay the Landlords \$400.00 for outstanding internet bills.

Conclusion

- [32] The Tenant's Application is denied.
- [33] The Landlords' Application is allowed.
- [34] The Tenant shall pay the Landlords \$400.00 by May 31, 2024.

IT IS THEREFORE ORDERED THAT

- A. The Tenant shall pay the Landlords \$400.00 by May 31, 2024.

DATED at Charlottetown, Prince Edward Island, this 8th day of May, 2024.

(sgd.) Cody Burke

Cody Burke
Residential Tenancy Officer

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals 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.