

**INTRODUCTION**

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On June 18, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the “Application”) with the Residential Tenancy Office (the “Rental Office”) seeking a monetary order and an order permitting access to the Rental Unit.
- [3] The Tenant withdrew the order requesting access to the Rental Unit as the Landlord restored access to the Rental Unit. The Application will solely deal with the request for compensation in the amount of \$1,000.00 because the Landlord contravened the Tenant’s right to access the Rental Unit.
- [4] On June 18, 2024 the Application was emailed to the Landlord.
- [5] On June 25, 2024 the Rental Office emailed the parties a notice of teleconference hearing. The Rental Office also mailed the Landlord a notice of teleconference hearing, and a copy of the Application.
- [6] On June 27, 2024 the Rental Office left a voicemail for the Landlord, with the evidence deadline and teleconference hearing details.
- [7] On July 2, 2024 the Rental Office emailed the parties an 8-page evidence package (the “EP”). The EP included a copy of the Application and notice of a teleconference hearing.
- [8] On July 4, 2024 at 9:00 a.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Tenant participated at the hearing. However, the Landlord did not call into the teleconference hearing at the scheduled time. The Officer postponed the hearing for ten minutes and the Rental Office attempted to contact the Landlord with the provided contact information. The Landlord did not answer. The Officer was satisfied that the Landlord received all relevant documents and the hearing proceeded in the Landlord’s absence.

**ISSUES**

- i. Did the Landlord contravene the Tenant’s right to access the Rental Unit?
- ii. Is the Tenant entitled to compensation?

**SUMMARY OF EVIDENCE**

- [9] The Rental Unit is a mobile home owned by the Landlord, along with the land where the mobile home sits (the “Mobile Home”).
- [10] The parties entered into a month-to-month tenancy agreement. The Tenant submitted into evidence an email dated November 28, 2023 from the Landlord to the Tenant’s disability worker. The email states:

*Address: The Rental Unit*

*Rent: \$600.00 (\$500 approved)*

*Included in Rent: heat, lights, internet, satellite TV, washer & dryer, shared living room, kitchen and bathroom, bedroom with large closet and bed included, parking.*

*Move in Date: December 1, 2023*

*Move Out Date: Unknown.*

- [11] The Tenant stated that the disability program paid her rent in the amount of \$500.00 on the first day of the month. The Landlord accepted that amount without dispute. No security deposit was required.

### TENANT'S EVIDENCE AND SUBMISSIONS

- [12] The Tenant submitted 3-pages of documents into evidence including: an email from the Landlord to the Tenant's disability worker describing the terms of the tenancy, and a physician consultation letter.
- [13] On June 11, 2024 the Tenant was taken to the hospital by EMS due to a medical emergency. The Tenant stated that she was released the same evening, however, the Landlord locked the door and denied access to the Rental Unit.
- [14] The Tenant stated that the Landlord lives in the Mobile Home with her, and they have separate rooms. The Tenant stated that she never had a key to the Rental Unit because the Rental Unit is in a rural location, and the doors are never locked. The Tenant stated that the relationship with the Landlord has been strained for some time.
- [15] The Tenant stated that for nine nights she stayed with a friend and couch surfed. The Tenant had to pay for food and gas during this time. The Tenant stated that she did not have access to her pets who are support animals. The Tenant stated that because she did not have access to the Mobile Home, she had to throw out a lot of food.
- [16] On June 16, 2024 the Tenant returned to the Mobile Home with law enforcement. The Tenant stated she was temporarily granted access to the Mobile Home to collect some personal items and have a shower. The Tenant stated that her rights were taken away.
- [17] On June 19, 2024 the Landlord permitted the Tenant to stay at the Rental Unit. On June 21, 2024 the Landlord allowed the Tenant to remain at the Rental Unit as long as she followed certain rules.
- [18] The Tenant stated that she has found a new place to live and is moving out of the Rental Unit shortly after the date of the hearing.
- [19] The Tenant stated that she is seeking \$1,000.00 in compensation for the contravention of her rights and the out of pocket expenses she incurred. The Tenant admitted to not having all the receipts but estimated it cost her \$40.00 a day for food and two tanks of gas for her travels.

### ANALYSIS

i. **Did the Landlord contravene the Tenant's right to access the Rental Unit?**

- [20] The Application is made in accordance with clause 75 of the Act. The Application seeks a monetary order, requesting compensation from the Landlord for contravening the Act. Clause 24 of the Act states:

**24. Tenant's right to access protected**

*A landlord shall not unreasonably restrict access to a rental unit and common areas of the residential property by*

*(a) the tenant of the rental unit; or*

*(b) a person permitted in the rental unit and common areas by that tenant.*

- [21] The Tenant's undisputed evidence is that after she was taken by EMS to the hospital, she was unable to return to the Rental Unit because the Landlord (who also lives in the Mobile Home) denied the Tenant access. The Tenant spent the next nine days' couch surfing, effectively being made homeless by the Landlord.
- [22] Security of tenure is a fundamental right provided under the Act. Landlords are prohibited from restricting access pursuant to clauses 24 and/or 26(1). A landlord may only terminate a tenancy in accordance with the Act (see clause 51(1)). In this case, the Landlord contravened clause 24 of the Act. The Landlord restricted access to the Tenant despite there being a tenancy in effect.

ii. **Is the Tenant entitled to compensation?**

- [23] Clause 85(1) of the Act provides the Officer with remedial powers after hearing an application. The Officer notes clauses 85(1)(d) and (i) state:

**85. Powers of the Director**

- (1) *After hearing an application, the Director may make an order*
- (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.*
- (i) *directing a landlord to pay a tenant an amount as compensation for inconvenience as a result of a contravention of this Act or the tenancy agreement, and authorizing the tenant to offset that amount against future rent.*

- [24] In this case, the Officer finds the Landlord's actions to be unacceptable and a breach on the Tenant's right to access the Rental Unit. For this contravention of the Tenant's rights, the Officer finds the Landlord must pay compensation to the Tenant in the amount of \$650.00. The Officer accepts the Tenant's submissions, and agrees that \$40.00 per day for food is a reasonable expense. Further, the Officer accepts the Tenant's evidence that she needed to refill her car twice during the 9 days she was restricted access to the Rental Unit. The Tenant submitted undisputed evidence that she needed to drive to the nearest town to buy food and personal items. The Officer breaks down the compensation as follows:

| Item  | Amount   |
|---|----------|
| Denied Access (9 days / 30 days x \$500.00) | \$150.00 |
| Expense for food (\$40.00 / day x 9 days)   | \$360.00 |
| Gas (\$70.00 per fill up x 2 fill ups)      | \$140.00 |
| Total                                       | \$650.00 |

- [25] The Tenant stated that she did not incur any additional expenses such as motel expenses. The Tenant described the 9 days without access to the Rental Unit as causing a lot of mental suffering and stress. The Tenant was describing pain and suffering. The Officer finds that the Act does not expressly provide such remedial powers to award a party compensation for pain and suffering. For this reason, the Officer refrains from awarding the Tenant any compensation for pain and suffering.

**CONCLUSION**

- [26] The Application is allowed, in part.
- [27] The Landlord shall pay the Tenant \$650.00 by July 31, 2024.

**IT IS THEREFORE ORDERED THAT**

I. The Landlord shall pay the Tenant \$650.00 by July 31, 2024.

**DATED** at Charlottetown, Prince Edward Island, this 10th day of July, 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 (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.