

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On June 11, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the “Application”) with the Residential Tenancy Office (the “Rental Office”). The Application seeks an order requiring the Landlord to provide garbage and/or waste cans for the Rental Unit. The Tenant does not seek any monetary compensation in the Application.
- [3] On June 11, 2024 the Tenant emailed the Application to the Landlord.
- [4] On June 27, 2024 the Rental Office mailed and emailed the parties a notice of teleconference hearing, and a copy of the Application.
- [5] On July 2, 2024 the Rental Office called the Landlord and left a voicemail message regarding the evidence submission deadline. The Landlord did not respond.
- [6] On July 2, 2024 the Rental Office emailed the parties a 34-page evidence package (the “EP”). The EP included a copy of the Application and a copy of the notice of hearing.
- [7] On July 4, 2024 at 11:00 a.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Tenant participated at the hearing. The Landlord did not call into the hearing at the scheduled time. The Officer postponed the hearing for ten minutes and the Rental Office attempted to contact the Landlord with the contact information on file. 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.

ISSUE

- i. Must the Landlord provide garbage and/or waste bins for the Rental Unit?

SUMMARY OF EVIDENCE

- [8] The Rental Unit is an apartment situated in a 6-unit apartment building (the “Residential Property”).
- [9] The Landlord and the Tenant entered into a written, fixed-term tenancy agreement beginning November 1, 2023. Rent is \$1,350.00 plus internet for a total of \$1,415.00 due on the first day of the month. A security deposit of \$1,350.00 was paid on November 1, 2023.

TENANT’S EVIDENCE AND SUBMISSIONS

- [10] The Tenant submitted 27-pages of documents into evidence, including: e-transfers receipts, photographs, a copy of the tenancy agreement, text messages, Island Waste Management Corporation receipts and a Municipal warning letter.
- [11] The Tenant stated that garbage bins were provided outside the Residential Property, however, in February 2024, the garbage bins were removed. Pages 11-14 of the EP are photographs of the garbage bins before and after they were removed. The Tenant stated that he asked the Landlord about the removal of the garbage bins. The Tenant stated that the Landlord responded in text message that the garbage bins were removed by the City for being a nuisance (page 30 of the EP).
- [12] The Tenant stated that the Landlord suggested to put the garbage in the public garbage bins located across the street of the Residential Property (page 30 of the EP). The Tenant stated that he does not feel comfortable using the public garbage bins and has been taking his garbage to Island Waste. The Tenant stated that he does incur a disposal cost, but is not seeking any money in the Application.

ANALYSIS

- [13] The Application is made in accordance with clause 75 of the Act. The Tenant requests a determination that the Landlord contravened the Act, and requests the Landlord provide garbage cans for the Residential Property. Clause 59 of the Act states:

59. Application respecting contravention

Where a landlord contravenes the obligations set out in sections 22 to 24 and 26 to 29, a material term of the tenancy agreement or a statutory condition set out in Part 2, the tenant may make an application to the Director under section 75 for an order as specified under subsection 85(1).

- [14] Clauses 21(1), (2) and 1(s)(xii) of the Act and clause 7 of the *Public Health Act Rental Accommodation Regulations* state:

**PART 2 – RESIDENTIAL TENANCIES – RIGHTS AND OBLIGATIONS
DIVISION 4 – Provisions Applicable during Tenancy****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.

Landlord may terminate or restrict certain services

- (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.

1. Definitions

In this Act,

- (s) **“service or facility”** means any service or facility that is provided or agreed to be provided by the landlord to the tenant of a rental unit, including by not limited to
 - (xii) garbage facilities and related services.

7. Garbage disposal

The owner shall provide or cause to be provided properly maintained the following: one regulation garbage can in good repair and properly located for each dwelling unit provided that where an incinerator is properly installed, used, and maintained, the number of garbage cans required may be reduced to the approval of a public health official provided that in the case of the dwelling unit, the tenant shall supply and maintain such garbage can.

- [15] The Tenant's undisputed evidence is that up until February 2024 he had access to garbage bins to dispose of waste. Since February 2024, the Residential Property has not had a garbage or compost bins at the Residential Property. The Tenant's undisputed evidence is that he was directed by the Landlord to use a street or public waste disposal located near the Residential Property.
- [16] The Officer finds that the Landlord is required to provide a garbage bins and/or compost and waste disposal located on and for the use of the Residential Property. To not provide this would be a contravention of clauses 21(1) of the Act, the past practice of the tenancies at the Residential Property, and clause 7 of the *Public Health Act Rental Accommodation Regulations*.
- [17] Based on the undisputed evidence, the Officer finds that since February 2024, the Residential Property has been without proper waste/garbage disposal bins. Therefore, the Landlord has contravened the Act.
- [18] The Tenant is not seeking monetary compensation for the contravention. The Tenant is seeking that the Landlord provide waste/garbage disposal bins for the Residential Property.
- [19] Clause 85(1)(c) of the Act provides the Officer with the remedial powers after hearing an application the following:

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.*

- [20] In this case, the Officer finds that the Landlord has contravened Clause 21(1) of the Act. Clause 21(1) is located in Division 4, Part 2 of the Act. Clause 11(2)(a) of the Act states:

11. Formal requirements

- (2) *The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*
(a) *the provisions set out in Division 4.*

- [21] Therefore, the Officer finds that the Landlord has contravened an obligation under the tenancy agreement. The Application is allowed. The Landlord shall provide or cause to provide the Residential Property with the required number of regulated waste/compost disposal bins by July 31, 2024.

CONCLUSION

- [22] The Application is allowed.
- [23] The Landlord shall provide or cause to provide the Residential Property with the required number of regulated waste/compost disposal bins for each unit by July 31, 2024.

IT IS THEREFORE ORDERED THAT

- I. The Landlord shall provide or cause to provide the Residential Property with required number of regulated waste/compost disposal bins for each unit by July 31, 2024.

DATED at Charlottetown, Prince Edward Island, this 15th 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.