

## INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On April 18, 2024, the Landlord filed an amended *Landlord Application to Determine Dispute* (Form 2(B)) (the “Landlord Application”) with the Residential Tenancy Office (the “Rental Office”), seeking rent owing in the amount of \$4,000.00 and \$300.00 in compensation for cleaning and damages.
- [3] On June 3, 2024, the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the “Tenant Application”) with the Rental Office requesting a return of rent in the amount of \$2,000.00, as the Landlord contravened the Tenant’s right to quiet enjoyment, the Tenant was evicted in bad faith, and the Tenant had suffered a loss or incurred a cost due to a breach of the Act or tenancy agreement by the Landlord.
- [4] On July 9, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Landlord, the Tenant, and two Tenant witnesses participated in the hearing.

## ISSUES

- i. Is the Landlord entitled to rent owing?
- ii. Is the Tenant entitled to a return of rent?
- iii. Is the Landlord entitled to compensation?

## SUMMARY OF THE EVIDENCE

- [5] On September 17, 2023, the parties entered into an oral tenancy agreement for the Unit, which is a three-bedroom cottage. The Landlord stated it was for a fixed-term until June 30, 2024, but the Tenant disagreed and stated it was an open-ended month-to-month agreement. Rent was \$2,000.00 due on the first day of the month. A security deposit was not required. The Tenant vacated on January 7, 2024.

### Landlord’s Evidence and Submissions

- [6] The Landlord’s evidence is summarized as follows. The parties had agreed by text message that the Tenant would rent the Unit until at least the end of June 2024. On January 2, 2024, the Tenant paid rent for January and advised the Landlord that she may be purchasing a house and vacating before June 2024. The Tenant agreed to pay the Landlord at least one more month’s rent and pay for damages before she vacated but no additional money was paid to the Landlord.
- [7] On January 4, 2024, there was a storm and the Landlord had to secure the door to the wood shed for a day. After the storm was over, the Landlord put a wheel barrow full of wood by the Unit. The Tenant never notified the Landlord she was low on wood. There are often problems with the internet and the Tenant did not advise the Landlord about any issues with the internet since December 2023. The Landlord declined to comment regarding the Tenant’s allegation that he harassed one of the Tenant’s guests.
- [8] The Tenant vacated on January 7, 2024, and the Landlord did not want to enter the Unit until after he contacted the Rental Office. The Landlord took possession of the Unit on January 9, 2024, and he took a video during an inspection of the Unit. A copy of the video was submitted into evidence as well as copies of text messages between the parties.

- [9] During the inspection the Landlord found there were windows left open and the Unit was left unclean. The Landlord had to clean the floor, windows, fridge, bedding, stove, and wood rack. The Tenant left personal items behind that the Landlord was required to store until the Tenant retrieved them. It took the Landlord two days to clean the Unit and he is seeking \$200.00 in compensation for his own time for cleaning.
- [10] During the inspection, the Landlord found that the Tenant's dog had damaged a cat door, a table, and the stairs. The Landlord is seeking \$100.00 in compensation for the estimated cost for paint to re-paint the stairs. The Landlord is not seeking compensation for the other damage.
- [11] After the Tenant vacated, the Landlord advertised the Unit online but he could not secure a new tenant until April 1, 2024. The Landlord is seeking rent owing for February and March as the Tenant broke the fixed-term agreement.

#### **Tenant's Evidence and Submissions**

- [12] The Tenant's evidence is summarized as follows. The parties had an open-ended cash tenancy agreement for the Unit. The parties had discussed the Tenant staying until May or June 2024 but no formal agreement was made.
- [13] The Tenant paid rent on January 2, 2024, and she advised the Landlord that she may be purchasing a house and could be moving out before the Spring. The Tenant told the Landlord that she would assist him in finding a new tenant if she moved out. After that time the Landlord's demeanor changed and he requested another \$2,000.00 in rent from the Tenant.
- [14] Between January 4 and January 6, 2024, the Landlord restricted the Tenant's access to the wood shed and wood was the primary source of heat for the Unit. From January 4 until she vacated, the Tenant did not have access to wifi as the Landlord had disconnected it. Both services were included in the tenancy agreement. The Landlord also harassed one of the Tenant's guests during this time.
- [15] The Tenant submitted text messages between the parties into evidence. The Landlord sent several texts stating the Tenant had to leave the Unit by the end of January such as:
- a. *"You can stay till the end of the month there's nothing else to talk about."*
  - b. *"End of the month That is all."*
  - c. *"You've changed the term now you need to pay \$2000 for rent & \$2000 damage deposit or leave Feb 1."*
  - d. *"We want to know today what your intentions are on when you're moving out. If you want to move out this weekend I can pro rate it."*
  - e. *"I will evict you if you don't pay what you promised."*
  - f. *"I've been asking you for days about the months rent you owe me. That's grounds for an eviction if you're behind rent."*
  - g. *"I told you on January 2 I'd give you till the end of the month to be out, if you need until Feb 1 that is fine, that is 30 days notice."*
  - h. *"We want to draw up something today for you to sign on a date to move out and amount owing otherwise I'll have to start the eviction process."*
  - i. *"You said you were going to get back to me yesterday, you didn't. Because of that I've served you your 30 days."*
- [16] The Tenant sent a reply to the Landlord stating *"I'm leaving and have nothing to say to you..."*
- [17] The Landlord continued to request money from the Tenant and continually sent her text messages. The Landlord made a complaint at the Tenant's workplace to get the Tenant fired. The Tenant became afraid of the Landlord's behaviour and moved out of the Unit on January 7, 2024, with the assistance of friends. The Landlord continued harassing the Tenant after she moved out.

- [18] The day the Tenant was vacating she and her friends cleaned the Unit. When the Tenant vacated there were no open windows, but there are windows open in the video submitted by the Landlord. The Tenant disputed that the video accurately depicts the Unit as she left it. The Tenant is seeking a return of rent for January 2024 because of the harassment she endured from the Landlord, the restricted access to wood for heat, and the restriction of wifi.
- [19] The Tenant's two witnesses testified they assisted the Tenant with cleaning the Unit before the Tenant vacated. The witnesses both stated the Unit was clean and there were no open windows when they left. The witnesses stated the Landlord was present when they all left the property together on January 7.

## ANALYSIS

- [20] The Landlord Application is seeking rent owing and compensation for cleaning and damages. The Tenant Application is seeking a return of rent for contraventions of the Act. In such matters it is each party's burden to prove the claims made in their application. This means the parties must provide the Officer with sufficiently clear and convincing evidence to support their claims. The relevant law is as follows:

### **39. Obligations on vacating**

*(2) When a tenant vacates a rental unit, the tenant shall*

*(a) leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear.*

### **51. Termination by agreement**

*(3) A landlord and a tenant may make a written agreement, other than a tenancy agreement, to end a tenancy.*

## **Issue i: Is the Landlord entitled to rent owing?**

- [21] The Officer finds that the evidence establishes the parties agreed to mutually terminate the tenancy, pursuant to clause 51.(3) of the Act. The Landlord / Tenant relationship between the parties had broken down after January 2, 2024. After that time, the Landlord messaged the Tenant stating that he wanted the Tenant to vacate before the end of January. The Tenant replied with a text stating she would be leaving and she vacated on January 7, 2024. As the tenancy was terminated by mutual agreement on January 7, 2024, the Officer finds that the Landlord has not established that he is entitled to rent owing for February or March 2024.

## **Issue ii: Is the Tenant entitled to a return of rent?**

- [22] The parties had conflicting testimony as to the events which had occurred between January 2 and January 7, 2024. The Tenant stated the Landlord restricted access to the wood shed and wifi. The Landlord stated he had to secure the wood shed during a storm and he was not aware of any issues with the wifi. The parties also had conflicting testimony as to the alleged breach of quiet enjoyment, as both parties stated the other person was the cause of the problems.
- [23] The Officer finds that the Tenant has not established, on a balance of probabilities, that the Landlord breached the Tenant's right to quiet enjoyment, that the Landlord evicted the Tenant in bad faith, or that the Landlord breached the Act or tenancy agreement.
- [24] However, the Officer does find that the Tenant is entitled to a partial return of rent for January 2024. As noted above, the tenancy ended on January 7, 2024, and after that time, the Tenant no longer had possession of the Rental Unit. As the Tenant paid full rent for January 2024, the Tenant is entitled to a return of rent for 24 days, totaling \$1,548.39.

**Issue iii: Is the Landlord entitled to compensation?**

**Cleaning**

- [25] The Landlord stated it took two days to clean the Unit and he is seeking \$200.00 in compensation. The Landlord submitted a video showing the condition of the Unit after the Tenant vacated. The Tenant and her witnesses stated the Unit was clean when the Tenant vacated.
- [26] The Officer notes that upon vacating, a tenant is responsible to leave a rental unit reasonably clean, but they are not responsible to clean to a higher standard, such as move-in ready condition for the next tenants. The Officer finds that the Landlord's evidence, specifically the inspection video, does not establish that the Unit was left in a state below reasonably clean when the Tenant vacate. This claim is denied.

**Damages**

- [27] The Landlord estimated it will cost approximately \$100.00 in painting supplies to repair the stairs. The Officer finds that the Landlord has not provided sufficient documentary evidence, such as photographs or an inspection report, to establish the condition of the stairs before the Tenant moved in. The Officer notes that clause 18 of the Act requires a landlord to complete a written inspection report prior to a tenant moving into a rental unit. Such evidence would have been of assistance to determine if the alleged damage was caused by the actions or neglect of the Tenant.
- [28] The Landlord has also not provided sufficient documentary evidence, such as an invoice for actual expenses or an estimate from a professional repair company, to quantify the compensation requested. The Officer finds that the Landlord has not established that he is entitled to compensation for repairs. This claim is denied.

**CONCLUSION**

- [29] The Landlord Application is denied and the Tenant Application is allowed in part.
- [30] The Landlord shall pay the Tenant \$1,548.38 by August 13, 2024.
- [31] This Order will be served to the parties by e-mail.

**IT IS THEREFORE ORDERED THAT**

- A. The Landlord shall pay the Tenant \$1,548.38 by August 13, 2024.

**DATED** at Charlottetown, Prince Edward Island, this 24th day of July, 2024.

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(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.