

INTRODUCTION

- [1] On July 11, 2024 the Applicant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office (the "Rental Office") disputing an *Eviction Notice* (Form 4(A)) dated July 2, 2024 for effect on July 23, 2024 (the "Notice"). The Notice was served for non-payment of "rent", in the amount of \$3,500.00.
- [2] On July 16, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for 11:00 a.m. on July 30, 2024, along with a copy of the Application.
- [3] On July 25, 2024 the Rental Office emailed a 130-page evidence package to the parties.
- [4] On July 30, 2024 a teleconference hearing was held with the parties before the Residential Tenancy Officer (the "Officer") for determination of the Application. The Applicant's lawyer, the Applicant, the Respondent and the Respondent's two witnesses joined the teleconference hearing. At the beginning of the hearing there was a preliminary matter regarding the Officer's jurisdiction to determine the matter between the parties.

PRELIMINARY MATTER

Does the Officer have jurisdiction to determine the matter between the parties?

SUMMARY OF EVIDENCE

- [5] The Property is a three-bedroom, two-bathroom single family dwelling that the Respondent and one of the Respondent's witnesses ("RW1") has owned since September 11, 2014.

Applicant's Evidence and Submissions

- [6] The Applicant's evidence is summarized as follows. The Rental Office probably does not have jurisdiction in this matter. The Respondent is not the Applicant's landlord.
- [7] There is no tenancy agreement between the parties. The reason that the Respondent and RW1 became the owners of the Property was to help the Applicant and the Respondent's son get a reasonably priced home.
- [8] The Applicant submitted into evidence correspondence between the parties, a document titled "Title Transfer Agreement", and other documents.

Respondent's Evidence and Submissions

- [9] The Respondent's evidence is summarized as follows.
- [10] The Respondent served the Applicant with the Notice based upon discussions that the Respondent had with the RCMP.
- [11] The Respondent does not have a tenancy agreement with the Applicant. The Respondent does not consider the Applicant to be a tenant.
- [12] The Respondent included the rent amount of \$3,500.00 in the Notice because this is the market rent of the Property's neighbourhood.
- [13] The Respondent has not filed any applications with the Rental Office regarding the Applicant.
- [14] The Respondent submitted into evidence a deed and mortgage filed with the Office of the Registrar of Deeds and property tax assessment documents.

ANALYSIS AND CONCLUSION

[15] For the reasons below, the Officer does not have jurisdiction to determine the matter between the parties.

[16] Subsections 1(n) and (w) of the *Residential Tenancy Act* define “rent” and “tenancy agreement” as follows:

“rent” means money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a rental unit, for the use of common areas and for services or facilities, but does not include
(i) a security deposit, or
(ii) a fee prescribed under clause 107(1)(j);

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and the provision of services and facilities.

[17] The Respondent included the \$3,500.00 in the Notice because this appeared to the Respondent to be the market rent in the neighbourhood. However, this amount cannot be considered “rent” because it is not money paid or agreed to be paid by the Applicant to the Respondent.

[18] The position of both parties is that there is no tenancy agreement between the Applicant and the Respondent and there is no landlord-tenant relationship. The Officer has reviewed the evidence and submissions provided by the parties and also finds that there is no tenancy agreement or landlord-tenant relationship between the Applicant and the Respondent.

[19] The Officer only has authority to adjudicate matters which are authorized by the *Residential Tenancy Act*.

[20] The Officer finds that, as there is no tenancy agreement and no landlord-tenant relationship between the parties, the Rental Office does not have jurisdiction to determine the matter between the Applicant and the Respondent.

IT IS THEREFORE ORDERED THAT

1. The Rental Office does not have jurisdiction to determine the matter between the Applicant and the Respondent.

DATED at Charlottetown, Prince Edward Island, this 1st day of August, 2024.

(sgd.) Andrew Cudmore

Andrew Cudmore
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.