

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On May 31, 2024, the Applicant filed an amended *Landlord Application to Determine Dispute (Form 2(B))* with the Residential Tenancy Office (the “Rental Office”) seeking to make a claim for outstanding rent, to make a claim against the security deposit, and for compensation above the security deposit (the “Application”). A copy was served to the Respondents on the same date.
- [3] On July 23, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Applicant and the Respondents (“R1,” “R2,” and “R3”) participated in the hearing.

ISSUE

- i. Is there a tenancy agreement between the Applicant and the Respondents?

SUMMARY OF EVIDENCE

- [4] The Applicant stated that he and the Respondents entered into an oral month-to-month tenancy agreement for the Rental Unit in August 2023. The Rental Unit is an apartment in a multi-unit building. Rent was \$1,700.00 per month and a security deposit of \$1,700.00 was paid.
- [5] The Respondents disputed the Applicant’s testimony of when the Respondents entered into their respective tenancy agreements and how much each Respondent paid for rent and security deposits. The Respondents’ evidence is summarized below and they reference another tenant who also lived in the Rental Unit (“T1”).

Applicant’s Evidence and Submissions

- [6] The Applicant’s evidence is summarized as follows.
- [7] The Applicant is seeking:
- a. Rent owing for April 2024 in the amount of \$1,100, as only \$600.00 was paid.
 - b. Rent owing for May 2024 in the amount of \$1,206.45, which is pro-rated to May 20.
 - c. \$100.00 for repairing a hole in the wall.
 - d. \$475.00 for cleaning.
 - e. \$175.00 for dump fees and fuel for going to the dump.
 - f. \$28.00 for repairing a thermostat.
 - g. \$380.00 for a replacement stove.
 - h. Unspecified expenses for plumbing.
 - i. Unspecified expenses for window repairs.
- [8] The Applicant entered into an oral tenancy agreement with the Respondents in August 2023. R2 paid rent by etransfer on behalf of the Respondents and R2 was the Applicant’s contact. R2 paid a \$1,700.00 security deposit at the end of July 2023.
- [9] The Applicant disputed that it was room rentals and rent was \$1,700.00 for the Rental Unit. The Applicant disputed that he received a \$650.00 security deposit from each tenant who lived in the Rental Unit. The Applicant had never received any money directly from R3. The Applicant did not know who T1 was and did not have T1 in his phone’s contact list.

- [10] The Applicant served the Respondents two eviction notices on March 8, 2024, which were addressed to "Any/All Occupants." One notice was for non-payment of rent and the Respondents were required to vacate by March 29, 2024. The other notice was for several causes related to the poor condition of the Rental Unit and the Respondents were required to vacate by April 9, 2024. The Applicant agreed to extend the vacate date and R1 and R2 vacated on May 20, 2024. The Applicant believes R3 vacated before R1 and R2 but he does not know when.
- [11] The Applicant submitted into evidence a statement from the cleaner who cleaned the Rental Unit after the Respondent's vacated. The cleaner stated it took several hours to clean the walls and floors. The kitchen was dirty and the stove could not be cleaned and had to be replaced. The kitchen and bathroom sinks were clogged and a plumber was required to snake them. The attic crawl space was full of garbage and personal items and it took four people six hours to clean it out. The bathrooms were dirty and there was a broken window. The cleaner stated she was paid \$475.00. Photographs of the Rental Unit were submitted into evidence.

Respondents' Evidence and Submissions

- [12] The Respondents' evidence is summarized as follows.
- [13] R1 stated he moved into the Rental Unit on March 1, 2023, and at that time there were five other people living in the Rental Unit. R1's portion of the rent was \$587.00 and his security deposit was \$650.00. R1 originally paid another tenant, T1, the rent and security deposit as T1 was the Applicant's contact. When T1 moved out and R2 moved into the Rental Unit, R1 then paid the rent to R2 as R2 became the Applicant's contact.
- [14] R2 stated he moved into the Rental Unit in July 2022 and at that time there was only T1 and one other person living in the Rental Unit. R2 paid a \$650.00 security deposit and \$587.00 in rent to T1 until T1 moved out. After T1 moved out R2 became the Applicant's contact and R2 collected rent from the tenants and paid the Applicant \$1,700.00 per month. R2 stated the Applicant required each person who moved into the Rental Unit to pay a \$650.00 security deposit.
- [15] R3 stated he moved into the Rental Unit in November or December 2023 and vacated on March 31, 2024, as the Respondents had received an eviction notice. R3 paid a \$650.00 security deposit and monthly rent of \$650.00 to R2. R3 never paid any money to the Applicant and always dealt with R2. R3 stated that his landlord was R2 and he was a sub-tenant in the Rental Unit. R3 submitted into evidence a copy of an etransfer notice showing that R3 paid R2 \$650.00 in rent on March 4, 2024.
- [16] R3 submitted screenshots of messages between the Applicant and R3. R3 stated he told the Applicant he was paying his rent to R2 and sent a copy of his March 4 etransfer notice to the Applicant. The Applicant responded with "You pay \$650.00?"

Director's Evidence

- [17] The Officer requested copies of the Form 4(A) Eviction Notices (the "Notices") served to the Respondents. The Notices were submitted by the Applicant and were included in the evidence package.

POST HEARING EVIDENCE AND SUBMISSIONS

- [18] At the end of the hearing the Officer requested further submissions from the parties to assist in establishing when rent or the security deposits were paid and to whom. The Officer requested the parties provide evidence such as text messages, rental ledgers, or etransfer notices. The Officer requested that the parties provide their submissions by August 2, 2024.

- [19] Between August 2 and August 7, 2024, R2 provided further submissions to the Rental Office. One of R2's submissions showed that he sent an etransfer of \$900.00 to the Applicant on April 1, 2024, and another etransfer of \$600.00 was sent to the Applicant on April 22, 2024.
- [20] One of R2's submissions showed that around July 14, 2023, T1 sent the Applicant an etransfer of \$350.00 and the Applicant responded to T1 stating that \$1,700.00 was owed for July. R2 submitted that these messages showed the Applicant knew who T1 was and the Applicant was not being truthful about this issue.
- [21] One of R2's submissions showed copies of messages between R2 and the Applicant. In the messages, the parties disagreed about the amounts owing for rent and disagreed about how much was paid for the security deposit by the Respondents.
- [22] On August 12, 2024, R2's additional submissions were provided to the Applicant and the Applicant was asked to reply with any submissions by August 14, 2024. No further submissions were received from the Applicant or the Respondents.

ANALYSIS

Issue i: Is there a tenancy agreement between the Applicant and the Respondents?

- [23] The Applicant stated he entered into a tenancy agreement with the Respondents in August 2023 and R2 paid the rent and security deposit on behalf of the Respondents.
- [24] The Respondents disputed the Applicant's testimony. R1 stated he moved into the Rental Unit in March 2023 and that he paid a security deposit and rent to T1 and then rent to R2. R2 stated he moved into the Rental Unit in July 2022 and paid rent to T1 and then he became the Applicant's contact and paid rent on behalf of the Respondents when T1 moved out. R3 stated he moved into the Rental Unit in November or December 2023 and paid rent and a security deposit to R2.
- [25] The Officer notes that the Applicant was provided with the opportunity to submit additional documentary evidence after the hearing. The Officer requested additional evidence such as copies of any text messages, rental ledgers, or etransfer notices, which could assist in the determination of this matter, however, no further evidence was submitted by the Applicant.
- [26] Based on the conflicting testimony of the parties and that the Notices were addressed to "Any/All occupants," the Officer is not satisfied that the Applicant was aware of who was living in the Rental Unit at the time the Notices were served. The Officer notes that written tenancy agreements became mandatory after the Act came into force in April 2023. Had the Applicant prepared written tenancy agreements for the individuals living in the Rental Unit, this documentary evidence would also have assisted in the determination of this matter.
- [27] Based on the evidence provided, the Officer is unable to determine if R1 was a tenant of the Applicant or a sub-tenant of T1 and/or R2, if R2 was a tenant of the Applicant or a sub-tenant of T1, or if R3 was a tenant of the Applicant or a sub-tenant of R2. Therefore, the Officer finds that the Applicant has not established that there was a tenancy agreement between the Applicant and any of the Respondents. The Rental Office does not have jurisdiction to determine the Application.

CONCLUSION

[28] There is no tenancy agreement between the Applicant and the Respondents and the Rental Office does not have jurisdiction to determine the Application.

IT IS THEREFORE ORDERED THAT

- I. There is no tenancy agreement between the Applicant and the Respondents.
- II. The Rental Office does not have jurisdiction to determine the Application and therefore the Application is dismissed.

DATED at Charlottetown, Prince Edward Island, this 27th day of August, 2024.

(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.