

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On July 25, 2024, the Landlords filed a *Landlord Application to Determine Dispute* (Form 2(B)) (the “Application”) with the Residential Tenancy Office (the “Rental Office”). The Application is seeking compensation for cleaning and damages. A copy was emailed to the Tenant on the same date.
- [3] On August 19, 2024, a notice of teleconference hearing was mailed to the parties.
- [4] On September 10, 2024, an evidence package was emailed to the parties.
- [5] On September 12, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Landlords, the Tenant, and two Tenant witnesses, participated in the hearing.

ISSUE

- i. Are the Landlords entitled to compensation?

SUMMARY OF EVIDENCE

- [6] In the Spring of 2017, the Tenant and a previous landlord entered into an oral month-to-month tenancy agreement for the Rental Unit, which is a half-duplex. In 2023 the Landlords became the owners of the Rental Unit and the tenancy agreement continued. Rent was \$795.00 due on the first day of the month. A security deposit was not required. The Tenant vacated the Rental Unit on July 19, 2024, due to an eviction notice, and the tenancy ended.

LANDLORDS’ EVIDENCE AND SUBMISSIONS

The Landlords’ evidence is summarized as follows.

- [7] After the Tenant vacated the Landlords found that the Rental Unit was unclean, there were holes in the walls, damage to the kitchen faucet, and dents in the fridge. There was chalkboard paint on a wall, the deck railing was damaged, and there was garbage left outside. The Tenant removed the light bulbs and heat pump remote batteries, a base of a shed needed to be disposed of, and the grass had not been cut by the Tenant for two years. The locks of the Rental Unit had to be repaired and there was damage to a cupboard.
- [8] The Landlords total expenses for cleaning and repairs is \$6,082.15. The Landlords are seeking \$5,774.41, which is \$307.74 less than the total expenses, as that is the amount of rent still owed by the Tenant. The Landlords submitted into evidence photographs of the Rental Unit after the Tenant vacated, invoices totaling \$617.47 for paint, an invoice for \$218.49 for a faucet, a lawn cutting invoice for \$80.00, and a locksmith invoice for \$204.12.

TENANT’S EVIDENCE AND SUBMISSIONS

The Tenant and Tenant’s witness evidence is summarized as follows.

- [9] The Tenant had asked the Landlords to fix the door locks but the locks were not fixed. The garbage under the deck was there when the Tenant moved in. The previous landlord had someone cut the grass for the Tenant and the Landlords did not continue this service. The previous landlord gave the Tenant permission to paint with the chalkboard paint for the Tenant’s grandchild. The nail holes in the walls were from photos and the previous landlord gave the Tenant permission to hang photos.

- [10] The Rental Unit had not been painted for the seven years the Tenant lived in the Rental Unit. The fridge was dented when it fell off the truck during delivery. The kitchen tap was always loose and the cupboard was always damaged. The deck rail was damaged by individuals who picked up some bed frames and it was not intentional.
- [11] The Tenant bought his own efficient lightbulbs and took those with him when he vacated. The Tenant did leave some old lightbulbs in the Rental Unit. The Tenant took the batteries out of the remote so they would not corrode. The Tenant's son was supposed to remove the mattress and the base of the shed but he failed to do this.

POST HEARING EVIDENCE AND SUBMISSIONS

- [12] The Landlords were permitted to submit additional evidence after the hearing. The Landlords submitted an invoice from DSC Enterprises Inc. in the amount of \$4,800.00, a photo of the deck, a statement from an employee of DSC Enterprises Inc. (the "Statement"), and a response to some of the Tenant's evidence. The Landlords' post hearing evidence was provided to the Tenant. No further submissions were received from the parties.

ANALYSIS

Issue i. Are the Landlords entitled to compensation?

- [13] The Landlords commenced the Application pursuant to the Act. The Landlords have the burden of proving their claims by the civil standard of proof, which is on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear and convincing evidence to support the Landlords' claims.
- [14] The Officer finds that the Landlords have provided sufficient evidence, specifically the photographs and the and testimony of the parties, to establish valid claims for the following:

| <u>Item</u> |
|---|
| cleaned unit thoroughly |
| cleaned and audited appliances |
| repaired deck railing panels |
| cleaned driveway/lawn cigarette butts and beer cans |
| removed garbage and mattress |
| wall damage (repair and paint) |

- [15] The Act states that upon vacating, a tenant shall leave a rental unit reasonably clean and undamaged, except for reasonable wear and tear. The Officer finds that the Rental Unit was not reasonably clean when the Tenant vacated and some items, such as garbage, a mattress, and base of a shed, were left behind in the Rental Unit, on the deck, and in the yard. The evidence establishes that some walls and the deck railing were damaged beyond reasonable wear and tear.
- [16] The Landlords have not provided an itemized cost breakdown for each job that was required. The Officer will therefore estimate the time it took for the labour. To estimate the hourly wage in this calculation, the Officer will rely upon the WorkPEI August 2024 Labour Force Survey Report, which states the average hourly wage for the "Business/building/other" category in August 2024 was \$23.91 per hour.
- [17] Based on the submitted evidence and testimony of the parties, the Officer finds it reasonable to award the Landlords twenty hours for cleaning and repairs, totaling **\$478.20** (\$23.91 x 20 hours).

Paint expense in the amount of \$617.47

- [18] A tenant is only responsible for the expense of repairing damages caused beyond reasonable wear and tear. A tenant is not responsible for the expense of re-painting an entire rental unit after they vacate. The Tenant lived in the Rental Unit for seven years, so some wear and tear, such as holes in walls for hanging photographs, would be expected. It would be common practice, and expected that after the tenancy ended, the Landlords would freshly paint the Rental Unit for the next tenant.
- [19] The Officer has noted above that some parts of the walls were damaged beyond reasonable wear and tear and would require painting. The Officer finds it reasonable, based on the submitted evidence, to award the Landlords 20% of this claim in the amount of **\$123.49**.
- [20] The Officer finds that the Landlords have not provided sufficient evidence to establish valid claims for the following:

| Item | |
|---|--|
| fill nail holes | snaked bathtub drain |
| paint walls and trim | repaired 4x window closer gears |
| replaced damaged plug | replaced missing light bulbs and batteries |
| repaired staining on downstairs bath vanity | pressure washed scaling off building |
| replaced damaged kitchen faucet | painted deck |
| repaired broken cupboard door | lower cabinets stripped and painted |
| extra paint efforts to cover black caulk wall | pressure wash deck |
| repaired water damage in basement ceiling | removed old paint to chemical waste |
| locksmith | grass cutting |

- [21] The best evidence a landlord can provide for these types of applications is “before” and “after” photographs, and/or inspection reports to assist in establishing a baseline of the condition of the Rental Unit from before a tenant moves in. In this case, the Landlords were not the owners of the Rental Unit at the beginning of the tenancy and no move-in photographs or inspection reports were submitted into evidence.
- [22] The parties provided conflicting evidence regarding the damaged kitchen faucet, fridge, cupboard door, chalk paint, garbage under the deck, light bulbs and batteries, door locks, and grass cutting. As noted above, the Landlords have the burden of proof to establish their claims. In this case, the Officer finds that the Landlords have not provided convincing evidence to overcome their burden of proof that the Tenant is responsible for these expenses.
- [23] The Officer further finds that the Landlords have not provided sufficient evidence to establish that the other listed repairs, the pressure washing, or the deck painting, were required as a result of any actions or neglect of the Tenant.

CONCLUSION

- [24] The Application is allowed in part.
- [25] The Officer finds that the Landlords have established that they are entitled to \$478.20 for cleaning and repairs and \$123.49 for paint, totaling **\$601.69**.
- [26] The Tenant shall pay the Landlords \$601.69 by the timeline below.

IT IS THEREFORE ORDERED THAT

- I. The Tenant shall pay the Landlords \$601.69 by October 15, 2024.

DATED at Charlottetown, Prince Edward Island, this 25th day of September, 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.