

INTRODUCTION

- [1] The Tenants seek compensation from the Landlord based upon insufficient waste removal services.

DISPOSITION

- [2] I find that the evidence supports part of the Tenants' claim, in the amount of \$728.23.

BACKGROUND

- [3] The Unit is a one-bedroom, one-bathroom apartment located in a six-unit building (the "Residential Property") that the Landlord has owned for over three years.
- [4] The Landlord and the Tenants entered into a written, fixed term tenancy agreement for the period of November 1, 2023 to October 30, 2024. Rent in the amount of \$1,350.00 is due on the first day of month. On November 1, 2023 the Tenants paid a \$1,350.00 security deposit.
- [5] On July 15, 2024 an earlier Residential Tenancy Office (the "Rental Office") decision, Order LD24-228, was issued for these parties regarding insufficient waste removal services.
- [6] On August 8, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* with the Rental Office seeking compensation due to insufficient waste removal services.
- [7] On August 20, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for September 17, 2024.
- [8] On September 11, 2024 the Rental Office emailed the parties a 53-page evidence package (the "Evidence Package").
- [9] On September 17, 2024 the Landlord and the Tenants joined the teleconference hearing. The Landlord and the Tenants confirmed receipt of the Evidence Package.

ISSUE

- A. Must the Landlord compensate the Tenants due to insufficient waste removal services?

ANALYSIS

- [10] The Landlord stated that the black and green Island Waste Management Corporation ("IWMC") bins for the Residential Property had been placed in the same location for 15 to 20 years. The Residential Property is located in the heart of Charlottetown and either occupants or external persons were not properly disposing of waste. The bins would be refused by IWMC, waste would build up and complaints would be made by neighbours. The result was that on May 3, 2024 the bins were removed by IWMC because of an order issued by the City of Charlottetown.
- [11] The Landlord submits that there were a number of external factors outside of the Landlord's control that led to this situation. The Landlord submits that there are publically available receptacles nearby that the Tenants could use to dispose of their waste.
- [12] On August 19, 2024 the Landlord resolved the waste disposal problems by advising the Tenants that waste could be dropped off at a specific location at the Residential Property and the Landlord would take care of the waste removal. The Landlord stated that he has no problem reimbursing the Tenants for out of pocket waste disposal expenses but opposes further compensation. The Landlord is working on a long term waste disposal solution.

- [13] The Landlord submits that the facts in Order LD24-228 are incorrect but he did not appeal the decision.
- [14] At the hearing the Tenants clarified that they are seeking reimbursement for their out of pocket waste removal expenses from May 3, 2024 to August 18, 2024. The Tenants also seek compensation of \$675.00 per month for the period before August 8, 2024 and \$1,350.00 per month from August 8, 2024 going forward.
- [15] The Tenants would drive with friends to IWMC's Charlottetown location one or two times per month to dispose of waste. The Tenants submitted into evidence one IWMC waste disposal fee invoice dated June 27, 2024, in the amount of \$5.00. The Tenants had thrown out the other IWMC receipts. The waste disposal issues did not prevent the Tenants from living in the Unit from May to August of 2024.
- [16] The Tenants filed an earlier application with the Rental Office regarding insufficient waste removal services. The Tenants submitted evidence and participated in an earlier teleconference hearing. Based upon this earlier proceeding Order LD24-228 was issued, which ordered as follows:
- "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."*
- [17] I have reviewed the parties' evidence and submissions.
- [18] The Landlord was required to provide the Tenants with waste removal services at the Residential Property pursuant to section 7 of the *Public Health Act Rental Accommodation Regulations*, section 21 of the *Residential Tenancy Act* and the tenancy agreement.
- [19] Even though the Landlord did not cause IWMC to remove the bins, the Landlord was still required to provide the Tenants with waste removal services at the Residential Property. Any attempt by the Landlord to contract out of this obligation and avoid responsibility is invalid pursuant to section 5 of the *Act*.
- [20] Publically available waste receptacles are not a suitable replacement for black and green IWMC bins at the Residential Property. The Landlord could have implemented the August 19, 2024 waste removal solution on May 3, 2024 and avoided the disruption of services.
- [21] The Tenants' reimbursement for out of pocket expenses is authorized by clause 85(1)(d) of the *Act*. I am satisfied by the evidence presented that the Tenants attended IWMC at least five times from May 3, 2024 to August 18, 2024 due to insufficient waste removal services and incurred total costs of at least \$25.00.
- [22] The Tenants' compensation claim due to the absence of waste bins is based upon clauses 85(1)(e) and (i) of the *Act*. The value of the tenancy agreement was reduced and the Tenants were inconvenienced. Although the Tenants incurred low out of pocket expenses, driving to an IWMC site for waste disposal is significantly more inconvenient than the more expensive option of paying a company to attend the Residential Property to collect waste. Further, the Tenants spent time and effort on earlier Rental Office proceedings because the Landlord did not immediately provide alternate waste disposal arrangements.
- [23] However, the Tenants' claims of \$675.00 and \$1,350.00 per month are excessive considering the Tenants continued to have use of the Unit and considering the other services that continued to be provided pursuant to the tenancy agreement. Upon a review of all the evidence and considering the total monthly rent of \$1,350.00, I find that compensation of \$200.00 per month from May 3, 2024 to August 18, 2024 is appropriate. The total amount is \$703.23, calculated as follows:
- May – \$187.10 – (29 days divided by 31 days multiplied by \$200.00)

- June – \$200.00
- July – \$200.00
- August – \$116.13 – (18 days divided by 31 days multiplied by \$200.00)

[24] The Landlord must pay the Tenants the total amount of \$728.23 (\$25.00 plus \$703.23) by the timeline below.

Tenancy Agreement Form

[25] I note that the Landlord prepared a *Standard Form of Rental Agreement (Form 1)*, which is an outdated form prescribed under the former rental legislation, the *Rental of Residential Property Act*.

[26] The current *Standard Form of Tenancy Agreement (Form 1)*, based upon the *Residential Tenancy Act*, is available online in the forms section of the Rental Office's website. The *Residential Tenancy Act* has been in force since April 8, 2023 and the tenancy agreement commenced over six months later. The Landlord must use tenancy agreement forms that comply with the current legislation.

[27] In particular, subsections 11(1) and (2) include the following requirements:

- (1) *A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*
- (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;*
 - (b) the correct legal names of the landlord and tenant;*
 - (c) the address of the rental unit;*
 - (d) the date the tenancy agreement is entered into;*
 - (e) the address for service and telephone number of the landlord, or the landlord's agent, and the tenant;*
 - (f) the services and facilities included in the rent;*
 - (g) the amount of rent that was charged, and the services and facilities that were provided, to the previous tenant of the rental unit, unless there was no previous tenant;*
 - (h) the name and contact information of any person the tenant is to contact for emergency repairs; and*
 - (i) the agreed terms in respect of*
 - (i) the date on which the tenancy starts,*
 - (ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis,*
 - (iii) if the tenancy is a fixed-term tenancy, the date on which the term ends,*
 - (iv) the amount of rent payable for a specified period,*
 - (v) the day on which the rent is due and the frequency of payment,**and*
 - (vi) the amount of any security deposit and the date the security deposit was or is required to be paid.*

[28] The Application is allowed in part.

[29] The Landlord must compensate the Tenants for insufficient waste removal services at the Residential Property for the period of May 3, 2024 to August 18, 2024, as provided below.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants compensation in the amount of \$728.23 by November 4, 2024.

DATED at Charlottetown, Prince Edward Island, this 15th day of October, 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.