

INTRODUCTION

- [1] The Tenant seeks a monetary Order against the Landlord in the amount of \$4,696.92, the return of the security deposit, and the right to end the tenancy without notice if the Landlord wont evict another tenant.

DISPOSITION

- [2] I find that the Tenant's grounds for compensation has not been established.

BACKGROUND

- [3] The Unit is an apartment in a 12-unit apartment building (the "Residential Property").
- [4] In November of 2020, the Tenant and the former landlord entered into a written, fixed-term tenancy agreement, which converted to a month-to-month agreement. A \$750.00 security deposit was paid. Rent is \$782.82 due on the first day of the month. In September of 2023 the Landlord purchased the Residential Property and the tenancy continued.
- [5] On September 9, 2024, the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office") seeking compensation, the return of the security deposit and the right to end the tenancy without notice.
- [6] On September 18, 2024, the Rental Office emailed the parties notice of a teleconference hearing (the "Notice of Hearing"), scheduled for October 10, 2024, along with a copy of the Application.
- [7] On October 3, 2024, the Rental Office emailed the parties a 20-page evidence package (the "Evidence Package").
- [8] On October 22, 2024, the Rental Office emailed the parties an updated Notice of Hearing, scheduled for November 5, 2024, along with a 23-page supplementary evidence package (the "Supplementary Package").
- [9] On November 5, 2024 the Tenant and the Landlord's representative (the "Representative") participated in the hearing. The parties confirmed receipt of the Evidence Package and the Supplementary Package and confirmed that all the documentary evidence was included.

ISSUE

- i. Must the Landlord compensate the Tenant?

ANALYSIS

- [10] The Tenant requests a determination that the Landlord has contravened their right to quiet enjoyment. Section 22 of the *Residential Tenancy Act* (or the "Act") states as follows:

A tenant is entitled to quiet enjoyment of the rental unit including, but not limited to, the right to

- (a) reasonable privacy;*
- (b) freedom from unreasonable disturbance;*
- (c) exclusive possession of the rental unit, subject only to the landlord's right to enter the rental unit in accordance with section 23; and*
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.*

- [11] The Tenant requests that another tenant in the Residential Property be evicted. If the other tenant is not evicted then the Tenant requests compensation in the amount of \$4,696.92, which represents six months of rent, a return of the security deposit and the right to end the tenancy without notice.
- [12] For the reasons below, I find that the Tenant's grounds for compensation have not been established.
- [13] The Tenant stated that the Residential Property has a no smoking policy. However, the tenant living below the Unit is smoking in their rental unit. Further the Tenant stated that the other tenant turns on his heat pump, which is loud and emits a lot of heat which makes the Unit uncomfortable.
- [14] The Tenant stated that she has called the police on two different occasions because of the other tenant's behaviour and has complained to the Landlord's representative on numerous occasions. The Tenant stated that these issues have been on-going since the other tenant moved into the Residential Property about a year ago.
- [15] The Tenant stated that the other tenant smokes in his rental unit during the very early hours of the morning which is why the Landlord's representatives have not been able to prove it. The Tenant stated that other tenants in the Residential Property and her guests have complained about the issues as well.
- [16] The Representative stated that she cannot evict the other tenant because there is no evidence to support the Tenant's claims. The Representative stated that two letters have been sent to all the tenants in the Residential Property reminding them of the no smoking policy. There have been different inspections of the rental unit and no evidence of smoking.
- [17] The Representative stated that the Supplementary Evidence shows the communication history between the Tenant and the Landlord's staff. The Representative stated that the other tenant has complained about the Tenant's noise. The Representative stated that the two tenants are not getting along. The Representative stated that no other tenants in the Residential Property have complained about smoking or loud noises coming from the other rental unit. The Representative stated that the Tenant can contact them at any time, night or day and they will investigate.
- [18] I have reviewed the evidence and the testimony provided by the parties. The documentary evidence, particularly the communication history found in the Supplementary Evidence establishes that the Tenant has brought numerous complaints forward. However, the same evidence establishes that the Landlord's staff followed up with inspections and investigated all complaints filed.
- [19] I find that the Landlord's staff has taken reasonable steps to investigate the complaints raised by the Tenant. I note that I do not have to power under the Act to force a landlord to serve another tenant with a *Form 4 (A)* or *(B) Eviction Notice*.
- [20] I find that the Tenant's grounds for compensation have not been established. The Tenant seeks a return of rent for the past six months. Despite the Tenant stating that her quiet enjoyment has been contravened, I find that the Landlord has taken reasonable steps to investigate the Tenant's complaints.
- [21] I have no jurisdiction over tenant to tenant disputes. My powers are granted under the Act. The only jurisdiction I have in a situation where a tenant has complaints about another tenant is when a landlord, for whatever reason, has refused to act upon the complaints. I may then make an Order directing the landlord to enforce the tenant's right to quiet enjoyment under section 22 of the Act. In this case, the Landlord took action on the complaints by giving every tenant two letters reminding them of the no smoking policy for the Residential Property. Further, the Landlord's representatives completed at least two inspections and investigated the complaints.

[22] Further, the Act does not grant me the power to force a landlord to return a security deposit before the tenancy has ended and/or to give the Tenant the ability to end the tenancy early without following the notice requirements under the Act.

[23] Therefore, I find that the Tenant's claim is denied and the Application is denied.

IT IS THEREFORE ORDERED THAT

1. The Application is denied.

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

(sgd.) Cody Burke

Cody Burke
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.