

INTRODUCTION

[1] The Tenant seeks a return of rent totalling \$1,762.50 due to an unlawful rent increase.

DISPOSITION

[2] I find that the Tenant has not established an unlawful rent increase. The return of rent claim is denied.

BACKGROUND

[3] The Unit is one-half of a duplex owned by the Landlord.

[4] On July 24, 2023, the parties entered into a written, fixed-term tenancy agreement for the period of August 15, 2023, to July 31, 2024. The Tenant paid a \$2,000.00 security deposit at the beginning of the tenancy. Rent of \$2,350.00 was due on the first day of the month.

[5] The Tenant moved out of the Unit on March 31, 2024, and the tenancy ended by mutual agreement.

[6] On July 8, 2024, the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "First Application") with the Residential Tenancy Office (the "Rental Office"). The First Application seeks a return of rent due to an unlawful rent increase. However, no dollar amount was on the First Application.

[7] On October 10, 2024, the Tenant filed an amended *Form 2 (A) Tenant Application to Determine Dispute* (the "Second Application") with the Rental Office. The Second Application seeks a return of rent of \$1,762.50 due to an unlawful rent increase. A copy was provided to the Landlord on the same date. The Second Application replaced the First Application and will be known as the "Application."

[8] On November 5, 2024, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for December 10, 2024.

[9] On December 5, 2024, the Rental Office emailed the parties an evidence package.

[10] On December 10, 2024, the Tenant, the Landlord, the Landlord's translator, and a Landlord witness participated in a teleconference hearing to determine the Application.

[11] The parties confirmed receipt of the evidence package and that everything submitted to the Rental Office was included.

ISSUES

A. Did the Tenant file the Application within six months after the termination of the tenancy agreement?

B. Must the Landlord return rent to the Tenant?

ANALYSIS

[12] The Tenant stated he is seeking a return of rent of \$1,762.50 due to an unlawful rent increase from August 15, 2023, to March 31, 2024. He noted this amount is an estimate because he does not know how much rent the previous tenant paid. The Tenant stated he believes the previous tenant paid around \$2,115.00, and comparable rents in the area are between \$1,500.00 and \$1,700.00.

- [13] The Tenant stated he had initially filed the First Application with the Rental Office for a return of rent on July 8, 2024. The Tenant stated that he had not served the Landlord with a copy of the First Application, as he did not know how much rent to ask to be returned. The Tenant stated that he filed the current Application on October 10, 2024, and acknowledged that it was past the six-month deadline, as the tenancy ended on March 31, 2024.
- [14] The Landlord agreed that the tenancy ended by mutual agreement on March 31, 2024. The Landlord stated they had not received a copy of the Tenant's First Application. The Landlord argued the Application should not be allowed because the Tenant filed outside of the six-month deadline.
- [15] The Landlord stated that the rent for the Unit was supposed to be \$2,375.00. The Tenant asked for the rent to be lowered to \$2,350.00, and the Landlord agreed. The Landlord stated they only charged \$2,000.00 for the security deposit, which has been returned.
- [16] The Landlord stated that another person was supposed to move into the Unit before the Tenant, but they did not move in. That person paid a security deposit of \$2,375.00, and the Landlord submitted a copy of this receipt after the hearing. The receipt was for \$2,375.00 and was dated May 15, 2023. It was for the address of the Unit and was for a "Deposit." The Landlord stated the individual did not sign a tenancy agreement before cancelling, but the rent was to be \$2,375.00.
- [17] After the hearing, both parties submitted additional evidence, which was shared with each party. The parties were given additional time to respond to the evidence, but no further submissions were received.

A. Did the Tenant file the Application within six months after the termination of the tenancy agreement?

- [18] The Tenant filed the First Application on July 8, 2024, and the Second Application on October 10, 2024, collectively the "Application." The Tenant filed the Second Application as an amendment to replace the First Application. As the First Application was filed within six months after the end of the tenancy agreement, I find that the Application was filed in accordance with the timeline specified in the Act.

B. Must the Landlord return rent to the Tenant?

- [19] Subsections 47(1) and (2) of *Part 3 of the Residential Tenancy Act* (the "Act") state:

A landlord shall not increase rent except in accordance with this Part.

The obligations of a landlord under this Part run with the rental unit and not the tenant.

- [20] The Tenant is seeking a return of \$1,762.50 rent due to an alleged unlawful rent increase. The Tenant estimated that the previous tenant paid around \$2,115.00, but his rent was \$2,350.00. I note that the Landlord did not fill in the tenancy agreement section that states the rent amount charged to the previous tenant, which is required by clause 11(2)(g) of the Act.
- [21] The Landlord stated the lawful rent for the Unit is \$2,375.00, but they discounted the Tenant's rent to \$2,350.00. The Landlord submitted a receipt as evidence showing that the individual who was supposed to move into the Unit before the Tenant paid a security deposit of \$2,375.00, and stated their rent was to be \$2,375.00.
- [22] I find that the Tenant has not submitted sufficient evidence, such as a previous tenancy agreement or witness testimony, to establish that the Landlord charged them an unlawful rent increase for the Unit. As the Tenant has not established an unlawful rent increase, I find that the Tenant is not entitled to a return of rent.

[23] I note that in Order LD24-239, the Rental Officer, in that matter, determined that once a landlord reduces the rent and accepts payment, the reduced rent is now the established rent for the Unit, and I agree. As such, the lawful rent for the Unit should be \$2,350.00 until lawfully increased and must be disclosed in accordance with the Act.

IT IS THEREFORE ORDERED THAT

1. The Application is denied.

DATED at Charlottetown, Prince Edward Island, this 30th day of December, 2024.

(sgd.) Mitch King

Mitch 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.