

INTRODUCTION

- [1] The Tenant claims against the Landlord for a total amount of \$9,041.00 for a return of rent and moving expenses.
- [2] The Landlord claims against the Tenant for a total amount of \$5,926.00 for outstanding rent.

DISPOSITION

- [3] I find that the Tenant must pay the Landlord \$5,926.00 for unpaid rent.

BACKGROUND

- [4] The Residential Property is a five-bedroom and three-bathroom single-family dwelling owned by the Landlord since December of 2022.
- [5] On December 25, 2023 the parties entered into a written, fixed-term tenancy agreement for the period of February 1, 2024 to June 30, 2025. Rent was \$2,500.00 due on the first day of the month and no security deposit was required.
- [6] The space rented in the Residential Property is in dispute.
- [7] On December 25, 2023 the parties also entered into a written supplemental agreement, which was written in Chinese. The Landlord submitted a copy into evidence along with an English translation.
- [8] The Tenant disputes the Landlord's English translation of the supplemental agreement.
- [9] On September 30, 2024 the Tenant vacated the Residential Property and the tenancy ended.
- [10] On October 8, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Tenant's Application") with the Residential Tenancy Office (the "Rental Office").
- [11] On October 28, 2024 the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Landlord's Application") with the Rental Office.
- [12] On November 1, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing, scheduled for November 14, 2024. On November 4, 2024 a revised notice of hearing was emailed to the parties.
- [13] On November 15, 2024 the Rental Office emailed the parties a notice of a teleconference hearing, rescheduled for December 17, 2024.
- [14] On December 12, 2024 the Rental Office emailed the parties a Titan File link for access to a 185-page PDF document which also included 3-recordings submitted by the Landlord (the "Evidence Package" or "EP").
- [15] On December 17, 2024 the Landlord, the Landlord's translator, the Tenant and the Tenant's translator participated in the hearing. The parties acknowledged receipt of the Evidence Package and confirmed all documents and videos submitted to the Rental Office were included in the Evidence Package.

ISSUES

- i. Must the Landlord compensate the Tenant for return of rent and moving expenses?
- ii. Must the Tenant pay outstanding rent to the Landlord?

ANALYSIS**i. Must the Landlord compensate the Tenant for a return of rent and moving expenses?**

- [16] The Tenant claims against the Landlord for a total amount of \$9,041.00 for return of rent and moving expenses, calculated as follows:

Return of Rent

Month	Amount Paid	Request Returned
February 2024	\$2,500.00	\$1,250.00
March 2024	\$2,199.00	\$949.00
April 2024	\$1,875.00	\$625.00
May 2024	\$1,875.00	\$625.00
June 2024	\$1,875.00	\$625.00
July 2024	\$1,875.00	\$1,000.00
August 2024	\$1,875.00	\$1,000.00
September 2024	\$0.00	\$0.00
Total		\$6,074.00

Moving Expenses

Moving company cost	\$1,357.00
Cost to remove fireplace	\$1,610.00
Total	\$2,967.00

- [17] The Tenant's Application claims that the Landlord changed the terms of the tenancy agreement without the Tenant's knowledge, the Landlord did not give proper written notice to end the tenancy and that the quality of the tenancy was devalued.

The Tenancy and Supplemental Agreement

- [18] On December 23, 2024 the Landlord sent the Tenant a copy of the tenancy agreement. This agreement was on the *Form 1 – Standard Form of Rental Agreement* an older version of a standard form used under the *Rental of Residential Property Act*. Under the rental unit description, the Unit had a "*" beside "Single Family Home." The rent was \$2,500.00 due on the first day of the month and no security deposit was required. Only the Tenant's signature was present on the document (EP18-21). Included in the Evidence Package was an English translation for the Appendix "A" (EP22).
- [19] On December 24, 2024 the Landlord sent the Tenant an updated version of the tenancy agreement. The document was on the *Form 1 – Standard Form of Tenancy Agreement*. Both parties acknowledged that this was sent to comply with the *Residential Tenancy Act* (or the "Act"). The tenancy agreement was dated December 25, 2024 and both parties signed the agreement.
- [20] Both parties submitted copies of the tenancy agreement dated December 25, 2024 into evidence. The Tenant's copy had a checkmark beside "Single Family Home" which was scratched out. A checkmark was beside Rooms with "3" handwritten beside it (EP12-13 and 26-27). The Landlord's copy had only the checkmark beside Rooms with "3" handwritten beside it (EP88-89 and 120).

[21] Neither party had an explanation about why there were differences between the tenancy agreements submitted into evidence. The Tenant stated that she believed she was renting the whole Residential Property despite signing the December 25, 2024 tenancy agreement that described the Unit as 3 rooms. The Landlord stated that the Unit was always 3 rooms. The Landlord stated that this is supported by the supplemental agreement. The Landlord denied changing the terms of the tenancy agreement.

[22] The Landlord's translation of the supplemental agreement (EP91) is as follows:

Lease Contract – Supplementary contract

Party A – Landlord

Party B – Tenant

- 1. Landlord will lease partial premises located at the Residential Property to the Tenant that includes three bedrooms (the master bedroom plus other two bedrooms) and shares public spaces, including furniture, kitchenware, dining room, garage, basement, living room and the driveway. The three bedrooms are private spaces of the Tenant, and the other two bedrooms belong to the Landlord's private spaces. Other areas are the common areas.*
- 2. Leases period is from 2024-02-01 to 2025-06-31.*
- 3. Rent: \$2,500 CAD per month. Payment method: e-Transfer to [REDACTED].*
- 4. If the Landlord or any family member of the Landlord does not live in the premises during the leasing period, the Tenant should pay all the relevant expenses incurred in using the premises such as water, electricity, heating, weeding, and snow removal. Landlord, the family members of the Landlord and the Tenant shall share the relevant expenses equally during the period when they jointly use the premises.*
- 5. This contract is the supplementary party of the official standard contract. If there is any differences in meaning between the two contracts, the supplementary contract shall prevail. This contract is made in two copies with each party holding one copy to get records.*

Signed by the Tenant and the Landlord and dated December 25, 2023.

[23] The Tenant disputed the English translation submitted by the Landlord. The Tenant stated that paragraph 1. does not have the words "three bedrooms." The Chinese version and the English version are different. The Tenant also stated that the Residential Property was advertised for 4 rooms (EP28).

[24] I asked the Tenant's translator to translate the first paragraph of the supplemental agreement. The Tenant's translator translated and stated:

"It says we will be occupying 3 rooms including the main bedroom and other public spaces. Including furniture, silverware, dining room, garage, basement, living room, garage again, driveway, or parkway I guess, so that is basically what it says."

[25] I asked the Tenant's translator to confirm that the words "three rooms" were clearly stated in the first paragraph of the supplemental agreement. The Tenant's translator stated that it said: "We will occupy three rooms during the summertime."

- [26] The Tenant clarified that she signed the supplemental agreement because she thought that during the summer months the Landlord's children may occupy the Residential Property. The Tenant stated that her family travels to China during the summer months and that the Residential Property is empty. The Tenant stated that she believed the supplemental agreement was for the Landlord's children to occupy the Residential Property during the summer months if needed.
- [27] The Landlord stated that the Residential Property is the only property he owns on Prince Edward Island. The Landlord stated that the tenancy agreement was always for three bedrooms because the Landlord would need a place to live if he needed to return to the province. The Landlord denied that the supplemental agreement was only for the summertime. The Landlord stated that the supplemental agreement was created and in Chinese for clarity and to outline the financial responsibilities when the Landlord occupies the Residential Property. The Landlord stated that there were also text messages which clarified the tenancy (EP44).
- [28] The evidence presented establishes that the Tenant rented three rooms with common areas and not the entire Residential Property. Therefore, I find that the Tenant has not established her claim that the Landlord tampered with the tenancy agreement or the supplemental agreement.
- [29] I note that this is a rather unique contractual arrangement where the property owner is both "Landlord" via the tenancy agreement and "Roommate" via the supplemental agreement.
- [30] I find that the Tenant acknowledged that it was her signature on the tenancy agreement and supplemental agreement. The two copies of the tenancy agreement submitted into evidence have minor differences, which neither party could explain. I find that both copies had a checkmark beside Rooms with a handwritten "3." The evidence does not establish that the Landlord altered the tenancy agreement after the Tenant signed the tenancy agreement.
- [31] The supplemental agreement was completed in Chinese and signed by the parties. The Landlord submitted an English translation copy of the supplemental agreement into evidence. The parties disputed over the Landlord's translated version and the purpose of the agreement.
- [32] I find that the Tenant's evidence does not establish that the Landlord tampered with the supplemental agreement. I further find that after considering both parties' English translation of the supplemental agreement, the Tenant has not established her claim.

No Written Notice and Devalue of the Tenancy

- [33] The Tenant stated that on February 15, 2024 the Landlord moved into the Residential Property and occupied a room. The Landlord's children occupied the other room every weekend. The Tenant stated that on March 1, 2024 she paid the Landlord $\frac{3}{4}$ of the total rent because of the pressure, stress and discomfort with the Landlord's use of the Residential Property. The Tenant stated that she believed she was renting the whole Residential Property.
- [34] The Tenant stated that in mid-February of 2024, the Landlord moved into the Residential Property. The Tenant stated that she is seeking half of February's rent back because of the Landlord occupying the Residential Property.
- [35] The Tenant stated that in March of 2024 she only paid \$2,199.00 in rent and is seeking a portion of it back in the amount of \$949.00. From April to August of 2024 she only paid \$1,875.00 in rent. The Tenant is seeking \$625.00 back from April to June 2024 and \$1,000.00 back from July and August 2024.

- [36] The Tenant stated that on March 31, 2024 the Landlord demanded that she vacate the Residential Property before May 1, 2024. The Tenant stated that she only lived in the Residential Property for two months and was planning to visit China on June 3, 2024. The Tenant stated that it was impossible to find new living accommodations in such a short period of time. The Tenant stated that she did not move out of the Residential Property on May 1, 2024 but on May 27, 2024 the Landlord again asked her to vacate the Residential Property.
- [37] The Tenant stated that the Landlord never gave her a written or official eviction notice. The Tenant stated that the Landlord and his children occupied the Residential Property alone while she visited China. The Tenant stated that she vacated the Residential Property at the end of September 2024.
- [38] The Tenant stated that during the tenancy she felt uncomfortable and that the Landlord breached her privacy. The Tenant stated that the value of the tenancy was lowered because she believed she was renting the whole Residential Property.
- [39] The Tenant stated that throughout the tenancy there were incidents between the parties' children, along with issues with the internet and a security camera. The Tenant stated that these issues devalued the tenancy and made the living arrangement uncomfortable.
- [40] The Tenant stated that she is seeking compensation for moving expenses. The Tenant submitted an invoice for the moving company in the amount of \$1,357.00 (EP83). The Tenant is also seeking compensation for having to remove the fireplace at her new house in the amount of \$1,610.00 (EP80). The Tenant stated that because she was forced to vacate the Residential Property, she purchased a house and the house had a fireplace which impeded her ability to move her piano into the house. The Tenant stated that she needed to remove the fireplace and is holding the Landlord responsible for this expense.
- [41] The Landlord stated that he only suggested that the Tenant could opt out of the tenancy agreement early if she was not satisfied with the arrangement. The Landlord stated that he did not know he could serve the Tenant an eviction notice for late payment of rent. The Landlord also stated that he wanted to work with the Tenant and did not want to evict her.
- [42] The Landlord stated that he reminded the Tenant that rent was \$2,500.00. The Landlord stated that in March of 2024 (EP44) and in May of 2024 (EP47) he offered a settlement where if the Tenant vacated before September he would refund half of the rent from the date of occupancy. The Tenant did not accept the settlement offer (EP45-47). The Landlord denied that the quality of the tenancy was decreased and that the Tenant did not pay the full rent, so any return of rent should be denied.
- [43] I have reviewed the evidence and I find that the Tenant has not established a valid claim for compensation.
- [44] I determined above that there was no objective evidence to establish that the Landlord tampered with or misrepresented the tenancy to the Tenant. Much of the Tenant's monetary claim flows from this determination. In considering the totality of the Tenant's claim, I find that the Landlord residing in the Residential Property did not breach or devalue the tenancy. The evidence does suggest that the parties' children may have had incidents of confrontation and there may have been disputes over cleanliness. However, I find that the evidence before me does not justify a return of rent claim.
- [45] I further find that the Tenant's moving expense claim is denied. The Landlord did not serve an eviction notice to the Tenant. It appears that the Tenant vacated the Residential Property by her own choice. Despite the Tenant feeling she had valid reasons for wanting to vacate the Residential Property, I find that the Act does not require the Landlord to compensate the Tenant for moving expenses in this case. As for the fireplace removal expenses, I find that it was the Tenant's sole decision to have the fireplace removed in her newly purchased home to fit her piano. I find that this claim is denied.

[46] The Tenant's Application is denied.

ii. Must the Tenant pay outstanding rent to the Landlord?

[47] The Landlord stated that he wanted to accommodate and work with the Tenant. The Landlord stated that the Tenant has not paid rent in full except for the first month of the tenancy. The Landlord stated that he did not want to evict the Tenant, however, he reminded the Tenant on numerous occasions that the rent was \$2,500.00.

[48] The Landlord stated that the Tenant owes \$5,926.00 in rental arrears, calculated as follows:

- March 2024 \$301.00
- April 2024 \$625.00
- May 2024 \$625.00
- June 2024 \$625.00
- July 2024 \$625.00
- August 2024 \$625.00
- September 2024 \$2,500.00

[49] The Tenant stated that she does not owe rental arrears because the Landlord breached the terms of the tenancy. The Tenant stated that the Landlord also accepted the payments each and every month. The Tenant's essentially argued that the Landlord acquiesced in the reduced payments of rent.

[50] Section 19 of the Act states:

Tenant shall pay rent when due

- (1) *A tenant shall pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has an express right under this Act to deduct or withhold all or a portion of the rent.*

[51] I have reviewed the evidence and I find that the Landlord is entitled to compensation for rent owed in the amount of \$5,926.00.

[52] As determined in the Tenant's Application, I found that the Landlord did not alter the tenancy agreement. I am satisfied on the evidence that the parties knew or ought to have known that the tenancy agreement was for 3 bedrooms in the Residential Property.

[53] Further, I find that despite the Landlord collecting the Tenant's reduced rent payments, the Landlord on numerous occasions reminded and requested that the Tenant pay the full \$2,500.00 rent (EP44-47; 115-118; 121-122). I find that the Landlord clearly communicated the terms and the expectations of the tenancy with the Tenant. I find that the Landlord did not acquiesce in this case. The Landlord also suggested that the Tenant vacate the Residential Property early and offered to refund the rent if she was able to vacate before September of 2024. The Tenant did not accept the Landlord's offer.

[54] I find that the Landlord's Application is allowed.

IT IS THEREFORE ORDERED THAT

1. The Tenant must pay the Landlord \$5,926.00 by March 13, 2025.

DATED at Charlottetown, Prince Edward Island, this 13th day of January, 2025.

(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.