

INTRODUCTION

- [1] The Landlord seeks to keep the remainder of the security deposit and compensation for rent owed, furnace oil expenses, and damages.
- [2] The Tenants are seeking a return of rent due to an unlawful rent increase and a return of the remainder of the security deposit.

DISPOSITION

- [3] The security deposit plus interest totals \$1,813.91.
- [4] The Landlord has established a rent amount owing claim of \$2,500.00.
- [5] The Tenants have established an unlawful rent increase claim of \$1,800.00.
- [6] The authorized rent for the Unit is \$2,500.00 per month until the rent is properly increased under the *Residential Tenancy Act* (the "Act").
- [7] These amounts are offset, and the Landlord must pay the Tenants the net amount of \$1,113.91.

BACKGROUND

- [8] The Unit is a single-family house that the Landlord owns.
- [9] The tenancy agreement was a renewal of a previous one-year fixed-term agreement. On July 10, 2022, the Tenants paid the Landlord a \$2,500.00 security deposit. On July 25, 2023, the parties entered into a written, fixed-term tenancy agreement from August 1, 2023, to July 31, 2024. Rent of \$2,500.00 was due on the first day of the month, and the Landlord increased the rent to \$2,650.00.
- [10] On July 31, 2024, the Tenants moved out of the Unit. \$800.00 of the security deposit was returned to the Tenants at that time.
- [11] On August 14, 2024, the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Landlord's First Application") with the Residential Tenancy Office (the "Rental Office") seeking to retain the remaining \$1,700.00 of the security deposit for rent owed and unpaid furnace oil.
- [12] On October 8, 2024, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 31, 2024.
- [13] On October 29, 2024, the Rental Office shared an evidence package with parties via TitanFile (the "Evidence Package").
- [14] On October 31, 2024, the Landlord and two Tenants, representing all Tenants, participated in a teleconference hearing. All parties stated they received a copy of the Evidence Package, and all submitted documents were included in the Evidence Package.
- [15] During the hearing, both parties brought up additional issues. After the hearing, the parties were permitted to submit further applications concerning the additional issues.
- [16] On November 4, 2024, the Tenants filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office seeking a return of rent due to an unlawful rent increase and a return of the remainder of the security deposit.

- [17] On December 11, 2024, the Landlord filed a second *Form 2 (B) Landlord Application to Determine Dispute* (the “Landlord’s Second Application”) with the Rental Office. The Landlord is seeking \$2,500.00 for rent owed, \$1,814.49 for unpaid furnace oil, and \$1,477.52 for damages. The Landlord’s two applications will be collectively called the “Landlord Applications.” The Landlord also submitted additional evidence.
- [18] On December 18, 2024, the Rental Office emailed the parties notice that the additional applications would be determined as a paper-based hearing scheduled for January 21, 2025. The parties were permitted to submit additional evidence for the paper-based hearing.
- [19] On January 13, 2025, additional evidence was submitted by the Tenants.
- [20] On January 13, 2025, an additional evidence package (the “Additional Evidence Package”) was shared with the parties via TitanFile. The parties were permitted to submit additional responses by January 20, 2025. No additional responses were submitted.

ISSUES

- A. Must the Tenants pay outstanding rent to the Landlord?
- B. Must the Tenants compensate the Landlord?
- C. Must the Landlord compensate the Tenants due to an unlawful rent increase?

ANALYSIS

A. Must the Tenants pay outstanding rent to the Landlord?

- [21] The Landlord stated he is seeking rent owed of \$2,500.00 for August 2024 for failure to provide proper notice to end the tenancy agreement. The Tenants provided notice on July 14 or 15, 2024, that they were not renewing the fixed-term agreement and vacated on July 31, 2024. The Landlord has been unable to re-rent the Unit because he is repairing damages caused by the Tenants.
- [22] The Tenants stated they tried to call the Landlord on July 1, 2024, to provide notice that they were vacating at the end of the fixed term on July 31, 2024. The Landlord did not answer the phone on that date, and the Tenants notified the Landlord on July 15, 2024, that they were vacating on July 31, 2024.
- [23] The evidence establishes that the Tenants did not provide at least one month to end the tenancy under clause 55(3) of the Act, which states:
- (3) A tenant may end a fixed-term tenancy by giving the landlord a notice of termination effective on a date that*
(a) is not earlier than one month after the date the landlord receives the notice;
(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy;
and
(c) is the day before the day that rent is payable under the tenancy agreement.
- [24] Section 53 of the Act also states that in order to be effective, a notice of termination must also be in writing. A phone call to another party is not sufficient under the Act.
- [25] As the fixed term was set to end on July 31, 2024, the Tenants would have had to provide the Landlord notice no later than June 30, 2024, to end the tenancy on July 31, 2024. However, the Tenants did not provide notice until July 15, 2024, which would make the end of the tenancy effective August 31, 2024. I find that the Landlord has established that the Tenants owe the Landlord \$2,500.00 in rent for August 2024.

B. Must the Tenants compensate the Landlord?**Furnace oil at the end of the tenancy**

- [26] The Landlord stated that the Tenants were responsible for the furnace oil expenses. The oil tank was full when the Tenants moved in, and it cost \$1,034.59 to fill the tank after they vacated. The Landlord stated that the Tenants agreed to allow the Landlord to keep \$1,034.59 of the security deposit for this expense. The Landlord submitted into evidence a copy of an oil invoice dated May 30, 2022, showing that the oil tank was filled on that date.
- [27] The Tenants disputed that they agreed to allow the Landlord to retain part of the security deposit for furnace oil. The Tenants stated they were not shown how much oil was in the tank when they moved in. The Tenants submitted invoices as evidence showing they had paid for oil on different occasions during their tenancy.
- [28] The evidence establishes that the oil tank was filled on May 30, 2022, but the Tenants did not move into the Unit until August 1, 2022. There is no evidence that the parties agreed on how much oil was in the tank at the beginning of the tenancy and there are no photographs of the oil gauge from August 1, 2022. Therefore, I find that the Landlord has not established how much of the oil expense the Tenants would be responsible for at the end of the tenancy. I find that the Landlord has not provided sufficient evidence to establish that he is entitled to compensation for the furnace oil expense at the end of the tenancy.

Furnace oil during the tenancy

- [29] The Landlord stated he filled the oil tank during the tenancy on November 14, 2023, as the Tenants let the oil run out. The Landlord stated he filled the oil tank "*in good faith*," but because the Tenants are claiming against him, he is also seeking this expense. The Landlord submitted an invoice for \$799.90 as evidence.
- [30] The Tenants disputed that they owe the Landlord for this expense.
- [31] I find that the Landlord has not provided sufficient evidence to establish that he is entitled to compensation for the furnace oil expense during the tenancy. The Landlord stated he filled the tank "*in good faith*" after the oil ran out and was not seeking this expense until the Tenants filed their application. I find that there is insufficient evidence to establish that the Tenants are responsible for paying the Landlord for this expense.

Damages to the oil tank

- [32] The Landlord stated the Tenants caused \$1,477.52 in damages to the oil tank due to turning off the furnace during the winter and letting the oil tank go empty. The Landlord submitted several invoices as evidence showing service calls and repairs to the oil tank.
- [33] I find that the Landlord has not provided sufficient evidence to establish that he is entitled to compensation for damages to the oil tank. Although the Landlord has provided repair invoices as evidence, I find that the Landlord has not provided sufficient evidence to establish that the repairs were required due to any actions or neglect of the Tenants, as opposed to normal wear and tear or other mechanical issues.

Damages to the Unit

- [34] The Landlord stated that the Tenants damaged the kitchen countertop, closet door, and tub surround, which caused water to leak into the bathroom and mold. Photographs of the damages were submitted as evidence.

- [35] I find that the Landlord has not provided sufficient evidence to establish that he is entitled to compensation for the alleged damages to the Unit. The Landlord has not provided any estimates or repair invoices to establish the cost of these repairs. Furthermore, the Landlord has not provided any move-in photographs or inspection reports of the Unit to establish a baseline condition from when the tenancy began.

C. Must the Landlord compensate the Tenants due to an unlawful rent increase?

- [36] The Tenants stated they are seeking compensation of \$150.00 per month for 12 months, totalling \$1,800.00, due to an unlawful rent increase. The Tenants stated that from August 1, 2022, to July 31, 2023, rent was \$2,500.00 per month, and from August 1, 2023, to July 31, 2024, rent was \$2,650.00. The Tenants stated that the Landlord was not permitted to raise the rent by that amount.
- [37] The Landlord stated he increased the rent because the Tenants were subletting to two additional people, increasing his expenses. The Landlord acknowledged that he did not give the Tenants a notice to raise the rent or apply to the Rental Office to raise the rent from \$2,500.00 to \$2,650.00.
- [38] I find that the Tenants have established that the Landlord must compensate the Tenants \$1,800.00 due to an unlawful rent. The evidence establishes that the Landlord increased the rent by 6.0%; however, the 2023 allowable rent increase was 0.0%. There is no evidence that the Landlord applied to the Rental Office to increase the rent above the allowable guideline.
- [39] I further find that the authorized rent for the Unit is \$2,500.00 per month until the rent is properly increased under the Act.

CONCLUSION

- [40] I find that the Landlord Applications are allowed in part, and the Tenant Application is allowed in part.
- [41] The Tenants must pay the Landlord \$2,500.00 in rent owed.
- [42] The Landlord must compensate the Tenants \$1,800.00 due to an unlawful rent increase.
- [43] The authorized rent for the Unit is \$2,500.00 per month until the rent is properly increased under the Act.
- [44] The amounts are offset, including the security deposit plus interest, and calculated as follows:

<u>Item</u>	<u>Amount</u>
Remaining Security Deposit	\$1,700.00
Interest on \$2,500.00 (July 10/22 – July 31/24)	\$95.24
Interest on \$1,700.00 (Aug. 1/24 – Jan. 23/25)	\$18.67
Unlawful Rent Increase	\$1,800.00
Rent Owed	(\$2,500.00)
Total owed by the Landlord	\$1,113.91

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenants \$1,113.91 by February 28, 2025.
2. The authorized rent for the Unit is \$2,500.00 per month until the rent is properly increased under the Act.

DATED at Charlottetown, Prince Edward Island, this 23rd day of January, 2025.

(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.