

## INTRODUCTION

- [1] The Tenants seek \$20,475.00 in compensation due to an unlawful rent increase.
- [2] The Landlords seek \$4,990.68 in compensation for the removal of appliances from the Unit.

## DISPOSITION

- [3] The Landlords will pay the Tenants \$20,475.00 due to an unlawful rent increase.
- [4] The Landlords' compensation claim is denied.

## BACKGROUND

- [5] The Unit is one-half a duplex (the "Residential Property") that the Landlords own. The Landlords live in the other half of the duplex.
- [6] On May 29, 1989, the Tenants and a previous landlord entered into a written month-to-month tenancy agreement for the Unit. A security deposit of \$275.00 was paid to the previous landlord at the beginning of the tenancy
- [7] In February 2019, the Landlords purchased the Unit, and on March 1, 2019, the parties entered into a written month-to-month tenancy agreement. The rent was \$650.00 monthly.
- [8] The Tenants moved out of the Unit on October 31, 2024, and the tenancy ended.
- [9] On December 9, 2024, the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Residential Tenancy Office (the "Rental Office"), seeking \$20,475.00 in compensation due to an unlawful rent increase.
- [10] On December 31, 2024, the Rental Office emailed the parties notice of a teleconference hearing scheduled for January 28, 2025.
- [11] On January 14, 2025, the Landlords filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Rental Office seeking \$4,990.68 in compensation for the removal of appliances from the Unit.
- [12] On January 22, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for February 27, 2025.
- [13] On February 13, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for March 13, 2025.
- [14] On February 14, 2025, the Rental Office emailed an 82-page evidence package to the parties.
- [15] On March 13, 2025, the Tenants and the Landlords participated in a teleconference hearing. All parties stated they received a copy of the evidence package and that all submitted evidence was included.

## ISSUES

- A. Must the Landlords compensate the Tenants due to an unlawful rent increase?
- B. Must the Tenants compensate the Landlords for removing appliances from the Unit?

**ANALYSIS****A. Must the Landlords compensate the Tenants due to an unlawful rent increase?**

- [16] The Tenants stated that they are seeking compensation of \$20,475.00 due to an unlawful rent increase. They stated that they paid an unlawful increase of \$325.00 per month for 63 months, from August 2019 to October 2024.
- [17] The Tenants stated that they were paying \$325.00 monthly to the previous landlord when the Landlords purchased the Unit in 2019. On March 1, 2019, the parties entered into a written month-to-month tenancy agreement, and rent was increased to \$650.00, but no services were changed.
- [18] The Tenants stated that the Landlords did not start charging the new rent of \$650.00 until August 1, 2019, because of work being done to the Unit. The Tenants stated they did not know the Landlords were not allowed to raise the rent by that much until they were looking at the Rental Office's website in May 2024. The Tenants stated that it should not be their responsibility to prove that they paid the previous landlord \$325.00, as it was in cash and there are no receipts.
- [19] The Landlords disputed that they should compensate the Tenants for the rent increase. They stated there was no proof the Tenants had only paid \$325.00 to the previous landlord, and the previous landlord has since passed away. The Landlords stated that the Tenants signed a contract to pay \$650.00 per month, and they should have to honour the contract.
- [20] The Landlords stated that \$650.00 per month did not cover the Unit's expenses. The Landlords stated that they installed a water heater for the Residential Property and had completed several repairs to the Unit. The Landlords submitted receipts and invoices as evidence.

**Unlawful rent increase**

- [21] The alleged unlawful rent increase spans from August 2019 to October 2024.
- [22] The *Residential Tenancy Act* (the "Act") came into force on April 8, 2023, and the *Rental of Residential Property Act* (or the "Former Act") was repealed.
- [23] I note that rent control has not changed from the Former Act to the Act. When a contravention of a provision happens under the Former Act, and no proceeding was started before April 8, 2023, then the contravention *may* be dealt with under the Former Act.
- [24] In this case, I will consider the unlawful rent increase under the Act. Despite the alleged contravention starting under the Former Act. I find that there is no substantial difference regarding rent control under the Former Act and the Act.
- [25] In Order LR19-15, the Island Regulatory and Appeals Commission (the "Commission") stated the following regarding rent increases:

*In Prince Edward Island, the Rental of Residential Property Act (the "Act") provides for a system of rent control whereby rent runs with the residential unit. When a lessee surrenders possession of that unit to the lessor, that rate of rent still remains fixed to that unit. This rent applies to a subsequent lessee even if the unit has been vacant between the tenancies. Any agreement as to the amount of rent reached between lessor and lessee is null and void to the extent that it runs contrary to the rent control provisions of the Act.*

*To balance out the rigours of rent control, Part IV of the Act sets out the process whereby rent increases may lawfully be made. If a lessor raises the rent of a unit without first following the process set out in Part IV of the Act, such an increase is illegal.*

*As there is no evidence that this rental increase was approved under Part IV of the Act, the Commission finds that the Appellant illegally increased the rent of 39 Rankin Court from \$800.00 per month to \$1500.00.*

*Both the Appellant and [Mr. W] pleaded lack of knowledge as to the quantum of the previous rent and lack of familiarity as to the requirements of the Act. [Mr. W.'s] testimony appeared to deflect blame to others. Lack of familiarity of the Act does not in any way mitigate the requirements of the Act.*

[26] I also note that in Order LR20-26, the Commission stated:

*The Commission finds that [the landlord] did have an obligation to apply to the Office of the Director in order to raise the rent for the Premises beyond the annual allowable amount, notwithstanding the absence of a rental agreement."*

[27] I find that there is no evidence that the Landlords received authorization from the Rental Office to increase the rent from \$325.00 to \$650.00.

[28] Although the Landlords argued that the Tenants agreed to pay \$650.00 for rent, section 2 of the Former Act states that Tenants could not waive their rights:

*This Act applies to rental agreements existing on the effective date or entered into or renewed on or after that date, notwithstanding any agreement, waiver or statement to the contrary.*

[29] The Landlords argued that there was no proof that the Tenants had paid \$325.00 per month to the previous landlord. However, I note that when a landlord purchases a rental property, it is incumbent on the new landlord to learn the rent from the old landlord to ensure that the new landlord remains compliant with the PEI rental laws.

[30] In Order LR25-14, the Commission recently noted that:

*We accept that, generally speaking, a tenant is not in a position to have a right of access to the information that may be required to prove a claim for illegal rent increase. For example, a previous tenancy agreement or a Landlord's bank statements. In a future case where a panel is able to consider the merits of a tenant's claims, it may well be that such arguments with respect to the burden of proof would be considered.*

[31] I find that the Tenants have provided sufficient evidence to establish that they paid an unlawful rent increase of \$325.00 per month for 63 months, totalling \$20,475.00. The Landlords will pay the Tenants \$20,475.00 according to the timeline below. The Tenant Application is allowed.

[32] I further find that the authorized rent for the Unit is \$325.00 per month until the rent is properly increased under the Act.

**B. Must the Tenants compensate the Landlords due to removing appliances from the Unit?**

[33] The Landlords stated that they are seeking \$4,990.68 in compensation and allege that when the Tenants moved out, they took the fridge, stove, washing machine, and dryer from the Unit. They stated that the Tenants also took all curtain rods and drapery hardware from the bottom level of the Unit.

[34] The Landlords stated that when they purchased the Residential Property, the previous landlord signed an "*Absolute Bill of Sale*" in February 2019, which was provided as evidence. It stated in part that the following items were being sold with the Residential Property and belonged to the Landlords:

*“curtain rods, drapery hardware, blinds, built in appliances, plus the following: all appliances and contents as viewed.”*

- [35] The Tenants stated that in 2003, they had asked the previous landlord to replace the Unit's appliances. The previous landlord told the Tenants that he could not afford to replace the appliances and that the Tenants could keep any appliances they replaced.
- [36] The Tenants stated that they had replaced the fridge, stove, washer, and dryer themselves and submitted invoices as evidence. They stated that the fridge, washer and dryer were replaced after the Landlords purchased the Unit. The Tenants stated that if they thought the Landlords were responsible for the appliances, then they would have asked the Landlords to replace them.
- [37] The Tenants stated that none of the curtain rods, drapery, hardware, and blinds were provided to them by the previous landlord. The Tenants stated that they purchased all of these items and that the previous landlord provided no compensation for these items. The Tenants disputed that the Landlords “viewed” the Unit before purchasing the Residential Property. They stated that the Landlords may have viewed the other part of the duplex but not the Unit.
- [38] I have reviewed the tenancy agreement that the parties signed in March 2019. The tenancy agreement has a section where the Landlords list the services included. The only included service that is indicated is grass cutting. There is no evidence to establish that appliances were an agreed-upon included service in the tenancy agreement.
- [39] Furthermore, the parties did not complete an inspection report when they signed the tenancy agreement. Although inspection reports were not mandatory under the Former Act, the Rental Office had a standard inspection report form available at that time to assist landlords and tenants in documenting the condition of rental units.
- [40] I note that one of the benefits of completing an inspection report at the beginning of a new tenancy or purchase of a Unit is that landlords and tenants put their minds to any potential issues regarding a rental unit, such as ownership of appliances.
- [41] The Landlords have the burden of proof to establish their claim on a balance of probabilities. I find that the Landlords have not provided sufficient evidence to establish that the Tenants must compensate the Landlords.
- [42] The Landlord Application is denied.

**IT IS THEREFORE ORDERED THAT**

1. The Landlords will pay the Tenants \$20,475.00 by June 2, 2025.

**DATED** at Charlottetown, Prince Edward Island, this 2nd day of April, 2025.

(sgd.) Mitch King

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**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.