



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: April 19, 2024

Dockets: LR23109

Type: Rental Appeal

INDEXED AS:

Order No: LR24-17

BETWEEN:

Mary Mermuys and Chris Mermuys

Appellants

AND:

Santanna McQuillan

Respondent

ORDER

Panel Members:

Kerri Carpenter, Commissioner and
Panel Chair

J. Scott MacKenzie, K.C., Chair

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This appeal was heard by the Commission on February 27, 2024, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that a landlord be ordered to request an inspection from Environmental Health, follow the instructions of Environmental Health and take every reasonable step to ensure the quality and safety of the water for the rental property.

B. BACKGROUND

2. On November 2, 2023, the Rental Office issued Order LD23-502. Order LD23-502 ordered the following:

A. The Landlords shall pay the Tenant \$657.19 forthwith.

B. The Landlords shall request Environmental Health do an onsite inspection of the Residential Property to ensure health, safety and housing compliance.

i. The Landlords shall follow the instructions of Environmental Health.

C. The Landlords shall take every reasonable step to ensure that the quality and safety of the water for the Residential Property is met forthwith.

3. The tenancy commenced in February 2017 between the tenant Santanna McQuillan (the “Tenant”) and the landlords Mary Mermuys and Chis Mermuys (the “Landlords”). The residential property is a mobile home (the “Premises”) owned by the Landlords and situated on land rented by the Landlords from a third party.
4. On November 22, 2023 the Commission received a Notice of Appeal from the Landlords. The Landlords advised that they complied with item A. of Order LD23-502 and paid the \$657.19 to the Tenant. The Landlords advised that they take issue with items B. and C. of Order LD23-502.
5. The *Residential Tenancy Act*, cap. R-13.11 (the “Act”) applies to this appeal.
6. The Commission originally scheduled the hearing for December 12, 2023. The Landlords advised that the hearing date was unsuitable and requested a new hearing date. The Commission then offered December 19, 2023. That date was accepted by the parties but then postponed by the Commission as a new matter between the parties was before the Rental Office. On February 8, 2024 the Commission advised that the appeal period for the new matter had passed. The hearing was then scheduled for February 20, 2024 but had to be re-scheduled to February 27, 2024.
7. The hearing was held on February 27, 2024. Mary Mermuys (“Ms. Mermuys”) represented the Landlords. The Tenant represented herself.

C. DISPOSITION

8. The appeal is dismissed and Order LD23-502 is confirmed.

D. ANALYSIS

9. Ms. Mermuys stated that the Landlords dispute items B. and C. of Order LD23-502. She stated that they cannot raise the rent very much and accordingly they cannot afford to make the repairs requested by Environmental Health as set out in a letter dated December 8, 2023 (Exhibit E-22). She stated that the Landlords only received that letter on December 19, 2023. She testified that the Landlords listed the Premises for sale on February 15, 2024 and she filed a copy of that listing (Exhibit E-23). In her words, the Landlords "... want to cut our losses" and "we can't handle it". She stated that the Premises are listed for sale on a 'to be moved, as is where is' basis.
10. Ms. Mermuys stated that the current rent was approximately \$404 per month.
11. The Tenant testified that she had requested an inspection of the Premises long before the Rental Office issued Order LD23-502. She stated that she and her children still do not have drinking water. She stated the washing machine has not been replaced with a working unit. She set out her most recent drinking water and laundry expenses in Exhibit E-24. This amounts to \$532.00 for laundry and \$814.84 cents for drinking water as of the hearing date. She stated that they have to use bottled water for drinking, cooking and brushing of teeth as they are under a "boil order" since May 2023.
12. The December 8, 2023 letter from Dwayne Collins, CPHI(C), Environmental Health Officer, Department of Health and Wellness (the "Environmental Health Report"), sets out observations, requirements and recommendations and then states:

The above requirements must be actioned within 10 business days of the date of this letter. All the above issues are to be completed within 20 business days of this letter. If you are unable to comply with this time frame, you must contact the undersigned to request an extension for work to be completed.
13. The Environmental Health Report also references and quotes the sections of the Public Health Act Rental Accommodation Regulations requiring an owner of a dwelling to take action.
14. The Commission finds that the Premises require major repairs for matters of health and safety and neither the Landlords' inability to afford these necessary repairs nor the fact that the premises have been listed for sale are reasons to reverse Order LD23-502. In addition, the Commission wishes to point out that the Environmental Health Report has its own line of authority, independent of Order LD23-502.
15. The Landlords may wish to consult with the Rental Office to determine whether there may be an appropriate method to terminate the tenancy under section 63 or section 64 of the Act.

E. CONCLUSION

16. The appeal is dismissed and Rental Office Order LD23-502 is confirmed.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Rental Office Order LD23-502 is confirmed.

DATED at Charlottetown, Prince Edward Island, 19th day of April, 2024.

BY THE COMMISSION:

(sgd. Kerri Carpenter)

Kerri Carpenter, Commissioner and Panel
Chair

(sgd. J. Scott MacKenzie)

J. Scott MacKenzie, K.C., Chair

NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.