



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: July 8, 2024
Dockets: LR24031
Type: Rental Appeal

INDEXED AS: Dylan Roberts v. Roop Realty Ltd.
Order No: LR24-38

BETWEEN:

Dylan Roberts (the "Tenant")

Appellant

AND:

Roop Realty Ltd. (the "Landlord")

Respondent

ORDER

Panel Members:

M. Douglas Clow, Acting Chair
Kerri Carpenter, Commissioner

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 May 28, 2024, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding: (a) that the tenancy agreement between the parties is terminated; and (b) that the Tenant’s claim for compensation is denied.

B. BACKGROUND

2. This appeal relates to a residential property located at 21 Water Street, Charlottetown (the “Rental Unit”). The Tenant has occupied the Rental Unit since approximately 2007 or 2008, and was party to a tenancy agreement with a former landlord before the current Landlord purchased the property. Rent was \$621.00 due on the first day of the month. A security deposit of \$300.00 was paid, and was transferred to the Landlord.

3. On March 28, 2024, the Landlord delivered to the Tenant a Form 4(A) Eviction Notice (“Eviction Notice”). The particulars of the Eviction Notice were as follows:

You or someone you have allowed on the property have disturbed, endangered others, or put the landlord’s property at significant risk;

*Previous warning letters attached (3)

Continued disruptive and intimidating behaviour that disrupts other tenants and their quiet enjoyment of unit and services provided. Verbal abuse of management.

4. On April 3, 2024 the Tenant filed a Tenant Application to Determine Dispute (Form 2(A)) (the “Application”) with the Residential Tenancy Office (the “Rental Office”), disputing the Eviction Notice. The Application also requested compensation for an alleged breach of the *Residential Tenancy Act* (the “Act”).
5. A teleconference hearing was held before a Residential Tenancy Officer (the “Officer”) on April 18, 2024. The Officer issued Order LD24-141 on April 26, 2024 which terminated the tenancy effective May 3, 2024 at 5:00 p.m. and denied the Tenant’s claim for compensation.
6. The Tenant filed an appeal with the Commission on April 30, 2024.
7. The Commission heard the appeal on May 28, 2024, by way of telephone conference call. The Tenant, Dylan Roberts, participated. Kim Morningstar (“Ms. Morningstar”) testified for the Tenant. The Landlord was represented by Scott Carr (“Mr. Carr”). Natasha Faulkner (“Ms. Faulkner”) testified for the Landlord.

C. DISPOSITION

8. The appeal is dismissed and Order LD24-141 is confirmed.

D. EVIDENCE OF THE PARTIES

Tenant's Evidence

9. The Tenant's documentary evidence consisted of photographs of the rental unit and lengthy written submissions via email.
10. At the hearing, the Tenant testified that he had no issues until certain people moved in downstairs. He acknowledged bouncing a basketball on the floor of the Rental Unit, stating that he was testing the air. He also acknowledged making noise in the Rental Unit, and admitted to yelling at Mr. Carr on at least one occasion and knocking on doors/ringing door bells of other rental units. The Tenant also acknowledged that he had been running the water, but testified that he has not done that in a long time. The Tenant testified that there is an awful lot of embellishment in the complaints from others.
11. We pause here to note that the Tenant also testified that he believes there are certain gasses coming in to the Rental Unit and alleged that these gasses were being pumped into the Rental Unit and other units. He asserts that that is the reason for his disruptive behaviour. However, we note that no proof of these allegations, beyond the Tenant's own assertions, was provided to the Commission.
12. Ms. Morningstar testified that things got bad after the current tenants moved into the unit directly beneath her unit (the "Downstairs Tenants") and she referred to the Downstairs Tenants as addicts. She stated that it was not just the Tenant that was running water and in fact others including herself have been running water. She admitted to also yelling at Mr. Carr, alleging it was because of the effects of gasses.

Landlord's Evidence

13. The Landlord provided significant documentary evidence to support their eviction. This included copies of warning letters to the Tenant on four (4) occasions between January 2024 and April 2024, witness statements and texts/emails of complaints from other tenants of the building, and email and text correspondence between the Mr. Carr and the Tenant.
14. Mr. Carr testified that the Tenant has been disturbing other tenants by stomping on the floor. He testified that the Tenant has been running hot water until it goes cold and there is then no hot water for the other tenants in the building. He stated that the Tenant's actions are putting stress on the mechanical systems of the building and causes stress on the other tenants. He noted that he had consulted with the police and fire departments, who inspected the building and have no issues with other tenants. He stated that the Tenant's videos show the Tenant stomping on the floor. He testified that the Tenant has been verbally abusive to the Landlord's staff. He stated that other tenants do not want to walk by the Tenant's unit because he will come out and want to talk about the gas. Mr. Carr expressed concern that the Tenant's behaviour will escalate. He stated that the Tenant's behaviour is irrational if people do not agree with him. Finally, Mr. Carr testified that both police and fire services have attended the premises to investigate the complaints of the Tenant regarding gasses, and they did not confirm these allegations.
15. Ms. Faulkner testified that she is a tenant in the same building as the Tenant and has lived there since April 2023. She stated that the fire and police departments have visited the building. She testified that the Tenant has stomped on the floor, and described an incident

over the holidays where the Tenant was ringing doorbells and smashed his hand on her apartment door. She testified that she was frightened the Tenant was trying to enter her unit so she called 911. She testified that the police arrived and the Tenant was instructed to avoid coming down to her floor. She testified that the Tenant misuses the building's water and there is often no hot water available, sometimes for long periods. She testified that the Tenant has accosted others in the hallways and common areas of the building.

E. ANALYSIS

16. On this appeal, the Commission is asked to determine whether Order LD24-141 of the Rental Office erred in concluding that the tenancy agreement is terminated and the Tenant must vacate the Rental Unit, and whether he is entitled to compensation.

17. Where a landlord seeks to terminate a tenancy under the *Act*, the onus is on the landlord to establish that the facts justify a termination of a tenancy agreement. In this case, the Landlord relied on subsection 61(1)(d) of the *Act* to terminate the tenancy. That subsection provides:

61. Landlord's notice for cause

(1) A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk.

18. For the reasons that follow, the Commission is satisfied that the Landlord has established that the Tenant's behaviour has significantly interfered with or unreasonably disturbed other occupants of the residential property.

19. First, we note that the Tenant, in his testimony, has acknowledged much of his conduct, especially towards Mr. Carr. The Tenant's position appears to be that there is an issue with a gas in the building which causes him to get angry. As noted above, the Commission has no evidence of this allegation, beyond the Tenant's assertions. We also note that the Tenant's own video evidence depicts him running the water, and stomping on the floor.

20. Next, the Commission has heard the testimony of Mr. Carr and Ms. Faulkner which both refer to the Tenant's conduct, and we find the evidence of both these witnesses to be

compelling. This evidence is further supported by documentary evidence in the form of warning letters, and text/email complaints from other tenants of the building.

21. For example, Exhibit E-24 and Exhibit E-25 are dated and signed statements from individuals who state that they had observed the Tenant's conduct. There are also text messages [for example Exhibits E-35, E-37 and R-1] and an email [Exhibit E-36] containing complaints to Mr. Carr from tenants in the same building as the Rental Unit.
22. The Commission has also reviewed the warning letters sent from Mr. Carr to the Tenant [see Exhibits E-17, E-18, E-19, E-20] sent in January (two letters), February and April 2024.
23. Upon a careful review of the written evidence as well as the numerous videos filed by both parties, the Commission is satisfied that the Rental Office correctly terminated the tenancy agreement as detailed in Order LD24-141.
24. The Commission finds that the Landlord has established that a termination of the tenancy agreement pursuant to clause 61(1)(d) is justified, as the Tenant has significantly interfered with and unreasonably disturbed other tenants and persons employed by the Landlord. The Commission finds that the degree of such interference and disturbance justifies a termination of the tenancy agreement.
25. With respect to the Tenant's request for compensation set out in his Application, the Commission finds there is no basis for this request as there is no objective evidence that the Tenant is being gassed by his neighbours.

F. CONCLUSION

26. The appeal is dismissed and Order LD24-141 is confirmed. The Tenant must vacate the Rental Unit by 5:00 pm, July 23, 2024.

IT IS ORDERED THAT

- 1. The appeal is dismissed.**
- 2. Order LD24-141 is confirmed.**
- 3. The tenancy agreement is hereby terminated on July 23, 2024, effective at 5:00 p.m. The Tenant and all occupants shall vacate the Rental Unit by this date and time.**
- 4. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Act.**

DATED at Charlottetown, Prince Edward Island, 8th day of July, 2024.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Acting Chair

(sgd. Kerri Carpenter)

Kerri Carpenter, Commissioner

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.