



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

**Date Issued: August 13, 2024**

**Dockets: LR24049**

**Type: Rental Appeal**

INDEXED AS: Trent Mullen v. Adam Affleck and Charles Bosworth

Order No: LR24-49

**BETWEEN:**

Trent Mullen (the "Tenant")

**Appellants**

**AND:**

Adam Affleck and Charles Bosworth (the "Landlords")

**Respondent**

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## ORDER

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Panel Members:

Douglas M. Clow, Acting Chair  
Kerri Carpenter, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

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Commission Clerk

Island Regulatory and Appeals Commission

## **A. INTRODUCTION**

1. This appeal was heard by the Commission on August 12, 2024, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in terminating the tenancy agreement between the parties and ordering the Tenant to pay outstanding rent in the amount of \$850.00.

## **B. BACKGROUND**

2. This appeal concerns a rental unit located at 201 Euston Street, Charlottetown (the “Rental Unit”). The Rental Unit is one room in a multi-room building. In particular, the Tenant rented Room #2. The Tenant has lived in the Rental Unit for many years. The Tenant and the former landlord had a verbal, month-to-month tenancy agreement. The Landlords purchased the Rental Unit in April 2024 and the tenancy continued. Rent is \$425.00 due on the first day of each month. No security deposit was required.
3. On June 24, 2024 the Landlord (Mr. Affleck) filed a Form 2 (B) Landlord Application to Determine Dispute (the “Application”) with the Rental Office. The Application sought vacant possession of the Rental Unit and an order for the Sheriff to put the Landlords in possession of the Rental Unit. The Application also included a claim for rent owing. The Application was accompanied by a Form 4 (A) Eviction Notice (the “Eviction Notice”).
4. The Eviction Notice was dated May 5, 2024, effective May 25, 2024. It indicates the tenancy agreement is being terminated for the following reason:

*You have not paid your rent in the amount of \$420.*

The particulars of termination state:

*No rent paid to date!*

5. On July 9, 2024, a teleconference hearing was held before the Rental Office. The Landlord and the Tenant both participated.
6. The Rental Office issued two orders on July 12, 2024. In Order LD24-225, the Rental Office found the Eviction Notice to be valid and allowed the Landlord’s Application for vacant possession, terminating the tenancy effective July 19, 2024. In Order LD24-226, the Rental Office allowed the Landlord’s Application for rent owing and ordered the Tenant to pay the Landlord \$850.00 by August 2, 2024.
7. The Tenant appealed Orders LD24-225 and LD24-226 on July 19, 2024.
8. The Commission originally scheduled the hearing for August 6, 2024. However, on August 5, 2024, the Tenant requested an adjournment to allow him additional time to prepare and seek representation. The Commission agreed to the Tenant’s request.
9. The appeal was ultimately heard by the Commission on August 12, 2024, by way of telephone conference. The Tenant appeared and represented himself. Adam Affleck appeared on behalf of the Landlords (referred to herein as the “Landlord”).

## **C. DISPOSITION**

10. The appeal is dismissed.
11. The Tenant owes the Landlord outstanding rent for July 2024 and August 2024 in the amount of \$850.00.

## **D. SUMMARY OF EVIDENCE**

### **Tenant's Evidence**

12. The Tenant's evidence consisted of his testimony at the hearing before the Commission, and a written submission made to the Rental Office that was submitted after the hearing before the Residential Tenancy Officer.
13. At the hearing before the Commission, the Tenant testified that he had an arrangement with the previous owner of the building to do various kinds of work for him around the building in exchange for payment of his rent and sometimes additional compensation over and above the amount of his rent. The work included cleaning, taking out the garbage, and "security" around the building. The Tenant testified that leading up to the current Landlord buying the building on April 15, 2024, they had some discussions about this arrangement continuing.
14. The Tenant testified that after the Landlord took possession of the building, he continued to do this kind of work around the building. However, he said that this quickly changed with the Landlord only agreeing to pay the Tenant for certain kinds of work.
15. The Tenant testified that shortly after the Landlord took possession of the building, he asked him to move out of Room #2 so that the ceiling could be repaired. As a result, the Tenant moved into another room, Room #1, that was much smaller. Not long after, the Landlord offered for him to move back into Room #2; however, the Tenant refused. The Tenant testified this made the Landlord angry, and that is why he eventually sought to have him evicted.
16. The Tenant testified to a conversation between himself and the Landlord on April 25, 2024, wherein the Landlord took all of the keys to the building the Tenant had in his possession and told him he was no longer in charge of the building.
17. The Tenant testified that after receiving the Eviction Notice, he did not pay the outstanding rent within 10 days. He said he did have the rent by approximately day 12 or 13; however, by that time, the Landlord refused to accept it because the Tenant asked for a receipt. The Tenant further testified that he did eventually pay the outstanding rent for May 2024 and June 2024 after Order LD24-226 was issued.

### **Landlord's Evidence**

18. The Landlord's evidence consisted primarily of his proof of service of the Eviction Notice and Application on the Tenant, and his testimony at the hearing before the Commission.
19. At the hearing before the Commission, the Landlord testified that he understood the Tenant was the former building owner's "caretaker" at the time he purchased the building.

20. The Landlord testified that shortly after he took possession of the building, he was owed a half month's rent from another tenant in the building. He testified that the Tenant had collected that rent from the other tenant, and refused to pay it to the Landlord on the basis that the Tenant believed the former owner of the building still owed him money. The Landlord testified it was after this incident that he told the Tenant there would be no agreement between the parties for the Tenant to do work for the Landlord. He also testified to another conversation on April 25, 2024, when he took keys from the Tenant. He said after he took the keys from the Tenant, the Tenant objected saying he had already done some work for April. For this reason, the Landlord agreed he would credit the Tenant and not seek any payment of outstanding rent for April. However, he testified that there was no further agreement between the parties to allow the Tenant to work in exchange for rent payment.
21. With respect to the Tenant's move from Room #2 to Room #1, the Landlord testified that this was necessary because the ceiling in Room #2 was falling in, and it was a safety hazard and liability for the Tenant to keep living in that room. Therefore, he requested the Tenant move rooms so he could have the ceiling repaired.
22. The Landlord also testified that he received rent payment from the Tenant for May and June 2024, after Order LD24-226 was issued.

## **E. ANALYSIS**

23. We begin our analysis with two preliminary comments. First, we note that at the hearing before the Rental Office, the Residential Tenancy Officer amended the Eviction Notice in accordance with clause 85(1)(l) to correctly reflect rent owing in the amount of \$425. The Landlord's Eviction Notice incorrectly stated unpaid rent in the amount of \$420; however, the Officer found that the testimony from both parties was clear that monthly rent was \$425. The Commission agrees that the uncontradicted evidence before us was that rent was \$425.00/month. Therefore, we agree with the amendment made by the Residential Tenancy Officer.
24. Second, Order LD24-225 and Order LD24-226 incorrectly spell the Tenant's surname. The Tenant confirmed on the record before the Commission that his surname is spelled "Mullen". We have corrected this spelling on the Commission Order.
25. Moving on to the matter under appeal. The Commission is asked to determine whether Order LD24225 of the Rental Office erred in concluding that the Tenant be ordered to vacate the Rental Unit.
26. Section 60 of the *Residential Tenancy Act* permits a landlord to end a tenancy if rent is unpaid after the day it is due by giving notice in accordance with the *Act*.
27. The Commission is satisfied that the undisputed evidence of the parties establishes that on the date the Landlord delivered the Eviction notice, being May 5, 2024, the Tenant had not paid rent for May 2024. Further, by the date of the hearing before the Rental Office, the Tenant also owed rent for June 2024, and had not made any payment towards the overdue rent.
28. It seems to us that the Tenant's primary argument respecting the payment of rent is that he had done work for the previous building owner to cover his rent, and expected that

agreement to continue with the new Landlords. There is some evidence that the Landlord entertained this idea leading up to purchasing the building; however, shortly after taking possession, this changed. Though the evidence before us is not totally clear about exactly what day the Landlord communicated to the Tenant that there would no longer be an ongoing “caretaker” role in the building, and he would not be paying him for any work done, we are satisfied that sometime before the end of April 2024, both parties understood that this role would not continue with the new Landlord beyond the end of that month. In other words, the evidence convinces us that the parties understood the Tenant would owe \$425.00 for rent for May 2024.

29. Therefore, we are satisfied that the Tenant owed rent for May 2024. The parties are agreed that by May 5, 2024, the Tenant had not paid rent for May 2024. The *Residential Tenancy Act* specifically gives tenants 10 days to pay overdue rent after receiving an Eviction Notice (section 60(4)(a)). The Tenant’s own evidence confirms that he did not pay the Landlord within this 10-day window. Instead, the Landlord waited more than two months for full payment and had to bring an application before the Rental Office to get May and June’s rent. Therefore, the Commission is satisfied that the Landlord has established that May’s rent was unpaid the date it was due, and not paid within 10 days of the Eviction Notice, and the Landlord’s termination on this ground is allowed.
30. At the hearing, the parties’ evidence was clear that the Tenant has not paid rent for July 2024 and August 2024. Therefore, we find that rent in the amount of \$850.00 remains outstanding for July 2024 and August 2024.

## **F. CONCLUSION**

31. The appeal is dismissed.
32. The Tenant owes the Landlord outstanding rent for July 2024 and August 2024 in the amount of \$850.00.

## **IT IS ORDERED THAT**

1. **The appeal is dismissed.**
2. **The tenancy agreement between the parties will terminate effective 5:00 p.m. on August 30, 2024. The Tenant must vacate the Rental Unit by this date and time.**
3. **The Tenant owes the Landlord outstanding rent for July 2024 and August 2024 in the amount of \$850.00.**
4. **The Tenant shall pay the Landlord outstanding rent in the amount of \$850.00 by 5:00 p.m. on August 30, 2024.**

5. 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, 13<sup>th</sup> day of August, 2024.

**BY THE COMMISSION:**

(sgd. Douglas Clow)

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Douglas M. Clow, Acting Chair

(sgd. Kerri Carpenter)

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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.