

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Hunter v. Baxter, 2014 NSSM 24

Between:

MICHAEL NEIL WADE HUNTER

APPELLANTS

- and -

JOHN STEPHEN BAXTER

RESPONDENT

ADJUDICATOR: David TR Parker QC

HEARD: June 13, 2014

DECISION: June 14, 2014

This was an Appeal from a decision of the Director of Residential Tenancies dated June 3, 2014 and being file number 201401740.

The summary of reasons and the facts outlined in the decision of the Residential Tenancy Officer, Clare Kennedy, mirrors the evidence before this court excepting for 3 issues. Two issues were raised by the landlord/respondent: destruction of property and continued nonpayment of rent for June month. The third issue was raised by the tenant/appellant: rent abatement due to water being turned off during his stay at the residence.

The Order of the Director made no mention of rent during the 13 days the appellant was to be a tenant in the property during June. I shall follow the same path for June month for reasons

outlined below and related to abatement of rent. I shall also deal with the damage deposit in the respondent's possession.

There was damaged certainly to the outside of the premises and certainly more than the damage deposit. I do not have any information that the police did all the damage as the appellant claims. The appellant said the police broke down the door to get into the house and the pictures indicate a lot more than breaking down one door. The security deposit should not be returned to the appellant. I cannot deal with the full amount of damage at this time as there was no cost invoices with respect to same. With respect to oil used by the appellant for which he may be responsible I have no evidence before me how much was used and therefore I will make no decision on whether the appellant should be paying for oil or should be reimbursed for oil as a result of payment by the appellant when he first moved into the premises.

The appellant in this case does not deny that he has not paid rent for May month except for \$75.00 and he also does not deny that he has paid no rent for June month. The appellant is very upset that the water was turned off during the time or at least during 14 days of the time he was residing in the premises and he wants a rebate on his rent. There is no evidence provided by the appellant what the cost was, as result of no water in the premises. There should be some rebate and as a result the Order of this court will not include June month's rent up to the time of termination. There was an issue with respect to the stairs collapsing to the basement and the appellant being injured however there is no medical evidence of any injury, the pictures do indicate there was some bruising but this is unquantifiable and not something requested of this court to deal with in any event. The appellant said that the landlord/respondent and his people destroyed him and that he let his friends move into the property. The appellant told the court he did not want to stay in the home and he would move out if the respondent would pay them \$750.00. The appellant went on to say he will stay in the house as long as he can. He said I do not want to be there today and not tomorrow but I am there. The appellant was quite concerned that this situation has resulted in him losing his children, I gather to social services, because he is not able to provide them with the necessities of life. This may well be a very

important issue and I am sure it is to the appellant but it's beyond the scope of this appeal to this court. I will vary the Director's Order where necessary but the main thrust of the Order will remain, based on the evidence provided in this trial de novo.

IT IS THEREFORE ORDERED that the Order of the Director of Residential Tenancies dated June 3, 2014, File No. 201401740, be varied as follows: the appellant Michael Neil Wade Hunter shall pay the landlord/respondent the outstanding rent for May month in the amount of \$625.00. The security deposit of \$350.00 and interest thereon if any, shall remain with the landlord/appellant. The tenancy is terminated and the tenant/appellant Michael Neal Wade Hunter and all occupants shall vacate the rental unit known as 20 South Albion St., Amherst, Nova Scotia on or before 12 noon on Tuesday, June 17, 2014

Dated at Amherst Nova Scotia this 14th day of June 2014

David T.R. Parker QC
Adjudicator of the Small Claims
Court of Nova Scotia