

Introduction

- [1] On May 10, 2023 the Tenant filed a Tenant Application to Determine Dispute (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is disputing a Notice of Termination pursuant to subsection 61.(5) of the *Act*.
- [2] Attached to the Application was a Notice of Termination by Landlord (Form 4A) dated May 8, 2023, effective May 31, 2023, (the "Notice"). The Notice was served on the Tenant via text message for the following reason:

You or someone you have allowed on the property have disturbed or endangered others.

- [3] The hearing was originally scheduled for May 29, 2023, but was subsequently rescheduled to May 30, 2023, whereupon a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). Both the Tenant and the Representative participated. The Landlord provided a documentary evidence package, but the Tenant did not.

Issue to be Decided

- i. Does the Tenant have to vacate the Residential Property due to the Notice?

Summary of the Evidence

- [4] On or about September 1, 2022, the Tenant and the Landlord entered into a tenancy agreement for the Residential Property which remains ongoing. The Residential Property is a one bedroom apartment in a 29 unit building. Rent is \$900.00 and there was no security deposit paid at the commencement of the rental relationship.

Landlord's Evidence and Submissions

- [5] The Landlord's evidence is summarized as follows. B.J. stated that since January 2023 the Landlord has been receiving multiple complaints from the other Tenants – included within the evidence provided by the Landlord were two witness statements/complaint letters. B.J. described multiple complaints as "about 10-12... possibly more" and the noise as "loud talking, yelling, and banging". B.J. stated that the complaints are based on noise emanating from the Tenant's unit and not respecting the other tenants with the noise. B.J. testified that the other tenants are complaining about the noise affecting their sleep. B.J. also stated that if something doesn't happen she is concerned that some long term tenants will leave because of the noise. B.J. also testified that she has spoken to and warned the Tenant on several occasions.

Tenant's Evidence and Submissions

- [6] The Tenant's evidence is summarized as follows. The Tenant stated that it is his feeling that since moving into the Residential Property he has been judged by his appearance. The Tenant questioned the "accuracy and reliability" of the witness statements and denied making the noise, stating that it was being emitted from other units. The Tenant also stated that hallway floor of the complex smells like cannabis.
- [7] The Tenant also required that the order formally state his objection to the timeframe to respond to the Landlord's evidence, including the witness statements.

Analysis

[8] The Landlord served the Notice pursuant to section 61(1)(d)(i) of the Act, which states:

(61)(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,

[9] The test to determine whether an interference upon the other lessees justifies termination of the rental agreement is whether the Tenant has “*significantly interfered or unreasonably disturbed*” other parties. Therefore, the perspective of the other lessees is vital. In the present matter the written statements of other tenants establish that “a lessee” within the building is being unreasonably disruptive and significantly interfering with drafters of the statements. The statements indicated the actions are not an isolated incident and may result in other Tenants moving out or threatening to move out.

[10] The Rental Officer however notes that the statements are anonymous and at no time state that the Tenant in this matter is the individual causing the issues. The Rental Officer also notes that in the text message communication between the parties the Tenant denies making the noise. As a result, the Rental Officer finds that the Landlord is therefore unable to establish, on a balance of probabilities, a sufficient nexus between this Tenant and the alleged disturbances. For this reason, the Application is allowed and the Notice is dismissed.

[11] Although the Tenant has been successful in this Application to dispute the Notice, **the Landlord has clearly demonstrated by the Notice that it will not tolerate behaviour and actions which disturb/interfere with the daily life of the other Tenants. In the future, should the Tenant breach the Act, then the Tenant, and all other occupants of the premises may be required to vacate the Premises pending the success of a subsequent eviction proceedings.**

Conclusion

[12] The Application is allowed and the notice is dismissed. The rental agreement between the Landlord and Tenant continues in full force and effect.

IT IS THEREFORE ORDERED THAT

A. The rental agreement between the Landlord and Tenant continues in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 5th day of June, 2023.

(sgd.) Jeremy Coffin

Jeremy Coffin
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 **7** 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.