

Introduction

- [1] On May 26, 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 an Eviction Notice pursuant to subsection 61.(5) of the *Act*.
- [2] Attached to the Application was an Eviction Notice (Form 4A) dated May 16, 2023, effective June 16, 2023, (the "Notice"). The Notice was served on the Tenant for the following reasons:

You have not paid your rent in the amount of \$5,000.00; and

You are repeatedly late in paying rent.

- [3] On May 16, 2023, the Landlord served the Notice on the Tenant by posting it on the Tenant's door. On May 26, 2023, the Tenant placed a copy of the Application in the Landlord's mailbox.
- [4] On June 22, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). Both the Tenant and the Landlord participated.

Issue to be Decided

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

Summary of the Evidence

- [5] On October 1, 2022, the Tenant and the Landlord entered into a written fixed-term tenancy agreement for the Residential Property. The Residential Property consists of a single unit in an eight-unit building. Rent is \$1,050.00 per month due on the first day of the month. A security deposit was not required.

Landlord's Evidence and Submissions

- [6] The Landlord stated only \$1,050.00 of rent has been paid since the Tenant moved in. The Landlord and Tenant set up a payment plan in April 2023 but the Tenant has not followed the payment plan. The Landlord stated that the Tenant owes the Landlord \$7,350.00 in outstanding rent as of the date of the hearing.

Tenant's Evidence and Submissions

- [7] The Tenant stated she agrees with the Landlord and does owe the outstanding rent. She stated she was on medical leave from her job and has just started working again. The Tenant stated the payment plan was for her to pay \$500.00 every two weeks until she was caught up in rent.

Analysis

- [8] Subsection 60.(1) of the *Act* states:

A landlord may end a tenancy if rent is unpaid after the day it is due, by giving a notice of termination effective on a date that is not earlier than 20 days after the date the tenant receives the notice.

[9] *Subsection 60.(4) of the Act states:*

Within 10 days after receiving a notice of termination under this section, the tenant may

(a) pay the overdue rent, in which case the notice of termination has no effect; or

(b) dispute the notice of termination by making an application to the Director under section 75.

[10] Based on the testimony provided by the parties the Officer finds that the Notice was properly served on the Tenant and the Tenant did not pay the outstanding rent within 10 days of receiving the Notice. The Officer finds that the Landlord has established a valid basis for terminating the tenancy agreement due to non-payment of rent over many months.

Conclusion

[11] The Notice is valid and the Application is denied.

[12] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on July 19, 2023. The Tenant and all occupants shall vacate the Residential Property by this time and date.

IT IS THEREFORE ORDERED THAT

- A. The tenancy agreement between the parties shall terminate effective 5:00 p.m. on July 19, 2023. The Tenant and all occupants shall vacate the Residential Property by this time and date.
- B. 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, this 12th day of July, 2023.

(sgd.) Mitchell King

Mitchell King
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.