

Introduction

- [1] On June 8, 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 31, 2023, effective July 1, 2023, (the "Notice"). On May 31, 2023, the Landlord served the Notice on the Tenant by giving it to the Tenant in person. The Notice was served on the Tenant for the following reasons:

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

and

You or someone you have allowed on the property have engaged in illegal activity on the property.

- [3] On July 4, 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

- [4] In April 2020, the Tenant and the Landlord entered into a verbal month-to-month tenancy agreement for the Residential Property. The Residential Property consists of a single unit in a 17-unit building (the "Building"). Rent is \$808.00 per month due on the first day of the month. A security deposit of \$500.00 was paid.

Landlord's Evidence and Submissions

- [5] V.Z. stated the Tenant got angry after she received an eviction notice in April 2023. V.Z. stated he was notified by witnesses they had heard the Tenant say she would burn the Building down and was willing to go to jail and be homeless. V.Z. stated this is hate speech and is illegal. The Building did catch fire between June 21, 2023, and June 22, 2023, and was partially damaged. V.Z. stated he is not evicting the Tenant for starting the fire but is evicting her for threatening to burn down the Building, which is hate speech.
- [6] V.Z. stated he did not hear the Tenant make these remarks. V.Z. submitted two audio files into evidence in which someone states they heard the Tenant threaten to burn down the Building. V.Z. stated that it was "C.L." and "R.P." speaking on the audio.

Tenant's Evidence and Submissions

- [7] The Tenant stated she did not start the fire and she did not threaten to start a fire. The Tenant stated because she won her eviction case it does not make sense that she would threaten to burn the Building down.
- [8] D.D. stated V.Z. gave the Tenant copies of the keys to all units in the Building. D.D. stated the Tenant was given the keys to assist other tenants in getting back into their units if they locked themselves out. D.D. questioned why V.Z. did not take these keys back from the Tenant if V.Z. was concerned about what the Tenant was saying.

Analysis

- [9] The Landlord's reasons for the Notice are pursuant to subsections 61.(1)(d) and (e) of the Act which state:

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;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(i) has caused or is likely to cause damage to the landlord's property,

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of the landlord or another occupant.

- [10] The Officer has reviewed the evidence including the audio recordings submitted by the Landlord. V.Z. stated that the voices of C.L. and R.P. can be heard on the audio recordings and they stated they heard the Tenant threaten to burn the Building down. However, neither C.L. nor R.P. testified at the hearing and there has not been any affirmed testimony provided to give context to the audio recordings from C.L. or R.P. The Officer notes that such evidence from C.L. and R.P. at the hearing would have been of assistance for the determination of this matter.
- [11] The Officer finds, on a balance of probabilities, that the Landlord has not provided sufficient evidence to prove that the Tenant has breached subsections 61.(1)(d) or (e) of the Act.

Conclusion

- [12] The Notice is invalid and the Application is allowed.
- [13] The tenancy agreement between the parties shall continue in full force and effect.

IT IS THEREFORE ORDERED THAT

- A. The tenancy agreement between the parties shall continue in full force and effect.

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.