

Introduction

- [1] On June 26, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Landlord is seeking the following remedy pursuant to the Act:

To request my tenant vacate the rental unit and ordering the Sheriff to put me in possession of the rental unit.

- [2] Attached to the Application was an Eviction Notice (Form 4A) dated May 17, 2023, effective May 28, 2023, regarding non-payment of the security deposit. On May 17, 2023, the Landlord served the Notice on the Tenant by posting it to the Tenant's door. The Notice was served on the Tenant for the following reasons

You have not paid your rent in the amount of \$1,650;

and

You have not paid the security deposit.

- [3] Attached to the Application was an Eviction Notice (Form 4A) dated June 3, 2023, effective June 12, 2023, (the "Notice"). On June 3, 2023, the Landlord served the Notice on the Tenant by posting it to the Tenant's door. The Notice was served on the Tenant for the following reasons:

You have not paid your rent in the amount of \$1,650;

You have not paid the security deposit;

and

You are repeatedly late in paying rent.

- [4] Attached to the Application was an Eviction Notice (Form 4A) dated June 6, 2023, effective June 16, 2023, (the "Notice"). On June 6, 2023, the Landlord served the Notice on the Tenant by posting it to the Tenant's door. The Notice was served on the Tenant for the following reasons:

You have not paid your rent in the amount of \$1,650;

You have not paid the security deposit;

and

You are repeatedly late in paying rent.

- [5] On July 13, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant and the Landlord participated in the hearing. The hearing was stopped due to the persistent disruptive and offensive conduct by the Tenant. The Tenant was warned numerous times before the hearing was stopped. The Officer advised the parties he would decide the results based on the written submissions. The Officer notes that the Landlord did not object to this.

Issue to be Decided

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

Summary of the Evidence

- [6] In April of 2023, the Landlord and the Tenant entered into a written fixed-term rental agreement for the Residential Property. The Residential Property consists of a unit in a three-unit apartment building. Rent is \$1,650.00 per month due on the first day of the month. A security deposit of \$1,450.00 was required. The Landlord submitted that \$600.00 was paid.

Landlord's Evidence and Submissions

- [7] The Landlord provided written evidence submitting that the Tenant failed to pay the full damage deposit and failed to pay rent for the month of June. A security deposit of \$1,650.00 was required. The Landlord submitted that this amount was reduced by \$200.00 for paint provided by the Tenant. The Landlord testified that the Tenant paid \$600.00 toward the security deposit, leaving \$850.00 outstanding.
- [8] The Landlord submitted photo evidence of a rental assistance cheque covering one month's rent submitted for the month of May
- [9] The Landlord submitted that a first notice of termination was posted on the Tenant's door on May 17, 2023 regarding the failure to pay the full security deposit. The Landlord posted a second Notice of termination on the Tenant's door on June 6, 2023. The Landlord served the Tenant with a Form 2(B) to request delivery of possession of the Residential Property on June 26, 2023, indicating that the Tenant was unwilling to vacate the Residential Property.
- [10] The Landlord attempted to provide oral testimony, but was unable to do so at the hearing due to the conduct of the Tenant. The Tenant unceasingly interrupted the Landlord, making his testimony beyond introductory information about the Residential Property impossible.

Tenant's Evidence and Submissions

- [11] The Tenant did not provide any written submissions.
- [12] During the hearing, the Tenant repeatedly and continuously interrupted both the Landlord and the Officer. The Tenant extensively shouted and used profanity. The Officer directed the Tenant more than seven times to stop interrupting. The Officer advised the Tenant that continued use of profanity and interruptions would force the Officer to end the hearing and rely entirely on the written evidence for the Application. The Tenant continued to interrupt and use profanity. The hearing was ended.

Analysis

- [13] The relevant sections of the Act instruct,

Landlord's notice for non-payment of rent

60(1) 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.

Tenant may dispute notice or pay unpaid rent

60(4) 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.

Tenant presumed to accept notice

60(5) *Where a tenant who has received a notice of termination under this section does not pay the rent or make an application to the Director in accordance with subsection (4), the tenant*

(a) is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and

(b) shall vacate the rental unit by that date.

Landlord's right to possession restricted

51(4)(b) *A landlord shall not regain possession of a rental unit unless the Director has made an order directing the tenant to vacate the rental unit and the order has been sent to the sheriff for enforcement.*

[14] Based on the evidence, 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. Furthermore, the Tenant did not file a '*Section 75 Application*' with the Rental Office and is therefore deemed to have accepted the Notice. The Officer therefore finds that the Landlord has established a valid basis for terminating the rental agreement due to non-payment of rent.

[15] The Officer finds based on the evidence that the Notice is valid and the Application is allowed.

Conclusion

[16] The Notice is valid and the Application is allowed.

[17] The rental agreement between the parties for the Residential Property shall terminate effective 5:00 p.m. on July 21, 2023. The Tenant shall vacate the Residential Property by this time and date.

IT IS THEREFORE ORDERED THAT

A. The Notice is valid and the Application is allowed.

B. The rental agreement between the parties for the Residential Property shall terminate effective 5:00 p.m. on July 21, 2023. The Tenant shall vacate the Residential Property by this time and date.

DATED at Charlottetown, Prince Edward Island, this 13th day of July, 2023.

(sgd.) Colin Trewin

Colin Trewin
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.