

Introduction

- [1] On June 16, 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 June 16, 2023, effective July 16, 2023, (the "Notice"). The Notice was personally served on the Tenants for the following reason:

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

- [3] The hearing was scheduled for July 10, 2023, when at that time a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). Both the Tenant and the Landlord's Representative 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 or about November 2019, the Tenant and the Landlord entered into a tenancy agreement for the Residential Property which remains ongoing. The Residential Property is a two-bedroom apartment in a nine unit building. Rent is \$860.00 and the landlord was unsure if a security deposit was paid.

Landlord's Evidence and Submissions

- [5] The Landlord's evidence is summarized as follows. J.G. stated that he has received multiple complaints about the Tenant smoking cigarettes and marijuana. J.G. further stated that five current units in the building have complained in addition to one other tenant who moved out. J.G. also stated that the Tenant is disrespectful to the other tenants, will lock her child in the hallway and the child will bang and scream to regain reentry. J.G. testified that the Tenant has been told that she cannot smoke in the building and that the Tenant will "tell them off". J.G. stated that a warning and notice was placed on the Tenant's door with a copy of the lease agreement illustrating the no smoking provision. J.G. further testified that the Tenant was caught on security camera vandalizing a car. J.G. also testified that tenants are threatening to move out because of the Tenants smoking and behavior.
- [6] J.G. provided written statements/complaints from three tenants related to the Tenant's smoking and behavior.

Tenant's Evidence and Submissions

- [7] The Tenants' evidence is summarized as follows. The Tenant stated that she only smokes outside and that other tenants also smoke both tobacco and cannabis. The Tenant stated that she is being bullied by her neighbour. The Tenant testified that she simply wants to be left alone and that she is actively looking for an alternative rental but that nothing is available.

Analysis

- [8] The Landlord served the Notice pursuant to section 61(1)(d),(e), and (h) 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,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant,

- [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 three other tenants establish that the Tenants’ smoking and behavior is unreasonably disruptive and significantly interfering with drafters of the statements within the non-smoking building. The Landlord stated that the issues were not an isolated incident and that tenants are threatening to vacate the residential rental as a result. The Rental Officer acknowledges the ongoing conflicts between the Tenant and one of the complainants, but notes that there are two other tenants which corroborate the evidence.
- [10] Based on the evidence provided at the hearing, the Rental Officer was unable to make any determination against the Landlord in favor of the Tenant.

Conclusion

- [11] The Notice is valid, and the Application is denied. The rental agreement between the parties shall terminate at 11:59 p.m. on July 23, 2023, and the Tenant shall be liable for rent up to and including this date. The Tenant shall vacate the Premises by this time and date.

IT IS THEREFORE ORDERED THAT

- A. The rental agreement between the parties shall terminate effective **11:59 p.m. on July 23, 2023**. The Tenant shall vacate the Premises 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 14th day of **July, 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.