

Introduction

- [1] On June 19, 2023, the Landlord filed a Landlord Application to Determine Dispute (Form 2B) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is seeking an earlier termination of the tenancy agreement. The Application is seeking:

*To request an earlier termination of the rental agreement;
To request an order to permit the disposal of the tenant's personal property;
Other. "Hoarding, bugs, rotting food, foul smell within the building."*

- [2] Attached to the Application was an Eviction Notice (Form 4A) dated June 17, 2023, effective July 17, 2023, (the "Notice"). The Notice was served on the Tenant on June 17, 2023, for the following reasons:

*You or someone you have allowed on the property have disturbed or endangered others;
You or someone you have allowed on the property has (sgd.) ancy
agreement.caused damage to the rental unit;
You have failed to comply with a material term of the tenancy agreement.*

- [3] On July 10, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). Both the Tenant and the Landlord participated.

Issues to be Decided

- i. Does the Tenant have to vacate the Residential Property due to the Notice?
- ii. Is an earlier termination of the tenancy agreement warranted?

Summary of the Evidence

- [4] In September 2021 the Tenant and the Landlord entered into a written fixed-term tenancy agreement for the Residential Property. The Residential Property consists of one unit in a 30-unit building. Rent is \$1,464.00 per month due on the first day of the month. A security deposit of \$1,450.00 was paid.

Landlord's Evidence and Submissions

- [5] T.F. stated there is mold, rotten food, and excessive household items throughout the Residential Property. The Fire Inspector attended the Residential Property on June 16, 2023, and they have recommended the Tenant leave the unit for her own safety. T.F. stated there are items so contaminated they must be removed through the patio doors so they do not contaminate the rest of the building. T.F. submitted photos of the Residential Property into evidence as well as a letter from the Charlottetown Fire Department. T.F. agreed to allow the Tenant to stay until July 31, 2023, at the request of the Tenant.

Tenant's Evidence and Submissions

- [6] The Tenant stated she would move out of the Residential Property. She stated she was present during the fire department's inspection of the Residential Property. The Tenant requested more time to clean up the property before moving. The Tenant requested to stay at the Residential Property until July 31, 2023. She stated she has not been living at the Residential Property for the past two weeks on the advice of the fire department.

Analysis

- [7] The Application is seeking an earlier termination of the tenancy agreement. The vacate date on the Notice is July 17, 2023. During the hearing the Landlord agreed to allow the Tenant to stay in the Residential Property until July 31, 2023. Therefore, the Officer does not need to make a determination regarding earlier termination of the tenancy agreement.
- [8] The Application is seeking an order to permit the disposal of the tenant's personal property. The Officer notified the Landlord during the hearing that an order cannot be made to dispose of the Tenant's personal property while the Tenant is still occupying the Residential Property and there is still a tenancy agreement in place.
- [9] The Application also stated: *Other. "Hoarding, bugs, rotting food, foul smell within the building."* Based on the testimony of the Landlord, the Officer notes this part of the Application is in relation to the reasons stated on the Notice pursuant to 61.(1)(d), (f), and (h) of the *Act*.
- [10] Subsection 61.(1)(d) and (f) of the *Act* 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.

(f) the tenant or a person permitted on the residential property by the tenant has caused unreasonable damage to a rental unit or the residential property.

- [11] Subsection 61.(1)(h) of the *Act* states:

A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

(h) the tenant

(i) has failed to comply with a material term of the tenancy agreement,

and

(ii) has not corrected the situation within a reasonable time after the landlord has given written notice to do so.

- [12] The Officer finds that the Landlord has provided sufficient evidence, on a balance of probabilities, to establish that the Tenant has breached subsection 61(1)(d)(i), (ii), and (iii) of the *Act*. As the Landlord has established a valid basis for terminating the tenancy agreement, the Officer will not determine the Landlord's other bases for termination of the tenancy agreement.

Conclusion

- [13] The Application is allowed in part.
- [14] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on July 31, 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 31, 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 19th day of July, 2023.

Mitchell King
Residential Tenancy Office

NOTICERight 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.