

## Introduction

- [1] On August 17, 2023, the Tenant filed a Tenant Application to Determine Dispute (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed seeking:

*To dispute a Notice of Termination (Form 4);*

- [2] Attached to the Application was an Eviction Notice (Form 4A) dated August 7, 2023, effective September 6, 2023, (the "Notice"). The Notice was posted on the door of the Residential Property on August 7, 2023, and was addressed to "The Squatters." The Notice was served on the occupants of the Residential Property for the following reason:

*You have sublet the rental unit without the landlord's consent.*

- [3] On September 7, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant and the Landlords participated.

## Issue to be Decided

- i. Do the Tenant and all occupants have to vacate the Residential Property due to the Notice?

## Summary of the Evidence

- [4] The Tenant stated that he and a previous property manager ("C.M.") entered into a verbal month-to-month tenancy agreement for the Residential Property on October 12, 2021. The Residential Property consists of a single apartment in a five-unit building. Rent is \$725.00 per month due on the first day of the month. A security deposit of \$750.00 was paid. The current Landlord recently purchased the building from the previous landlord.

## Landlord's Evidence and Submissions

- [5] The Landlord stated the first time she attended the Residential Property she found several people living in the unit. She asked everyone for identification but no one would provide their identification to her. She does not know who is living there and no one identified themselves as the people on the tenancy agreement she received from the previous landlord. The Landlord submitted a copy of the tenancy agreement into evidence.
- [6] The Landlord stated she is receiving complaints from other tenants in the building. She stated the occupants in the unit are bothering other tenants, they are parking all over the parking lot and grass, and there was a water leak from the Residential Property into the unit below. The Landlord stated she did not give permission for anyone to sublet and the tenants in the unit are illegally subletting.

## Tenant's Evidence and Submissions

- [7] The Tenant stated that none of the people who are named on the rental agreement provided by the Landlord are living in the Residential Property anymore. He stated he and another person in the unit had a verbal rental agreement with the previous property manager C.M. The Tenant stated that there are five people living in the unit presently. He stated after the Landlord issued the Notice, two of the occupants left. The Tenant stated he allowed two new people to move in to help pay the rent. The Tenant stated it is C.M.'s fault if there is an issue with the new Landlord.

## Analysis

### Subletting without permission

- [8] The Notice was served on the tenants of the Residential Property pursuant to subsection 61.(1)(i) of the Act which states a landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

*the tenant purports to assign or sublet the rental unit without first obtaining the landlord's written consent as required by section 30.*

- [9] Subsection 30.(1) of the Act states:

*A tenant may, with the written consent of the landlord, sublet or assign a rental unit or part of a rental unit to another person.*

- [10] The Tenant stated two of the occupants of the Residential Property moved out after the Landlord served the Notice. He stated he then allowed two new people to move into the Residential Property after that time to help to pay the rent. The Landlord stated she did not give anyone permission to sublet the Residential Property.

- [11] Based on the totality of the evidence the Officer finds that the Landlord has established a valid basis for terminating the rental agreement between the Tenant and the Landlord, due to the Tenant subletting the rental unit without first obtaining the Landlord's written consent, contrary to subsection 61.(1)(i) of the Act.

### Deeming provision

- [12] With regards to the other tenants in the Residential Property, subsections 61.(5) and (6) of the Act state:

*(5) A tenant may dispute a notice of termination under this section by making an application to the Director under section 75 within 10 days after the date the tenant receives the notice.*

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

- [13] Based on the totality of the evidence, the Officer finds that the Notice was properly served on all the tenants and occupants living in the Residential Property. Furthermore, no other tenants, other than the Tenant, filed a 'Section 75 Application' (Form 2A) with the Rental Office and they are therefore deemed to have accepted the Notice, pursuant to subsection 60.(6) of the Act.

[14] **Conclusion**

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

[16] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on September 18, 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 September 18, 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 11th day of September, 2023.

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(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.