

## Introduction

- [1] On August 22, 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 18, 2023, effective September 18, 2023, (the "Notice"). The Notice was served on the Tenant in person on August 18, 2023. The Notice was served on the Tenant for the following reasons:

*You have permitted an unreasonable number of occupants in the rental unit;*

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

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

- [3] On September 14, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant and a Representative for 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 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 apartment in a three-unit building. Rent is \$612.00 per month due on the fifth day of the month. A security deposit of \$300.00 was paid.

## Landlord's Evidence and Submissions

- [5] The Representative stated beginning in the spring of 2023, the Landlord started receiving complaints about the Tenant's sister and the sister's friends. He stated the sister was staying at the Residential Property on and off and the police were being called to the property, the neighbours were complaining about behaviour issues, and the sister was bringing trouble to the area. The Landlord submitted into evidence copies of messages between the Landlord and the Tenant from June to August 2023 in which the Landlord told the Tenant that his sister could no longer be at the property. The Landlord also submitted into evidence a timeline of some of the complaints he has received regarding the Tenant's sister.
- [6] The Representative stated in August of 2023, the Landlord was receiving daily calls about the Tenant's sister. The Representative stated the information the Landlord received was second hand from neighbors and other tenants in the building. People were complaining about drug use, noise, and screaming. He stated police have been to the property multiple times. The Landlord submitted into evidence an email from two individuals with some complaints regarding the Tenant's sister and her behaviour.

### Tenant's Evidence and Submissions

- [7] The Tenant stated on July 19, 2023, he called the police himself to remove his sister from the property. He stated his sister has not been staying at the property anymore and she has not been there since August 25, 2023. The Tenant stated on August 29, 2023, his sister did get into an argument with a neighbour outside of the building but that neighbour was going to dispose of some of the sister's property.
- [8] The Tenant stated the evidence submitted by the Landlord from other people was dated after he had received his eviction notice. He stated the basement is now locked so his sister and her friends can no longer access it. He stated he contacted the police and the police told him that they have been to the Residential Property only three times and one of those times the Tenant called himself.

### Analysis

- [9] The Landlord's reasons for the Notice are pursuant to subsections 61.(1)(c), (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:*

*(c) there is an unreasonable number of occupants in the tenant's rental unit;*

*(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 Representative stated the reasons for eviction have come from second hand information from other tenants and neighbors, and the Landlord has not witnessed any of the alleged behaviour. The Landlord submitted into evidence email correspondence from two individuals which outline some of the alleged behaviour as well as a timeline of some of the complaints he has received. However, none of the complaining individuals participated in the hearing to provide affirmed testimony and the Officer notes that such evidence from these individuals at the hearing would have been of assistance for the determination of this matter.

- [11] The Officer finds that based on the totality of the evidence the Landlord has not provided sufficient evidence to establish, on a balance of probabilities, that the Tenant has breached subsections 61.(1)(c), (d) or (e) of the *Act*.

### Conclusion

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

### IT IS THEREFORE ORDERED THAT

- A. The Application is allowed and the Notice is invalid.
- B. The tenancy agreement between the parties shall continue in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 19th day of September, 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 20 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.