

Introduction

- [1] On August 2, 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 July 2, 2023, effective August 2, 2023 (the "Notice"). The Notice was served on the Tenant for the following reasons:

You have not paid the security deposit;

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; and

You or someone you have allowed on the property has caused damage to the rental unit.

- [3] On July 2, 2023, the Landlord served the Notice on the Tenant by placing it in her mailbox. On August 2, 2023, the Landlord served the Application on the Tenant by placing it in her mailbox.
- [4] On September 19, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord participated in the hearing. The Tenant did not participate in the hearing.

Issue to be Decided

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

Summary of the Evidence

- [5] The Landlord entered into a written one-year fixed-term tenancy agreement with "K.S." in December of 2022. The Landlord testified that he allowed K.S. to have the Tenant live in the Residential Property as a roommate. The Landlord testified that he allowed K.S. to leave the fixed-term tenancy agreement early on June 1, 2023. The Tenant continued to live in the Residential Property following K.S.'s departure under an implied month-to-month tenancy agreement. The Residential Property is one unit of a triplex. Rent is \$1,100.00 per month, due on the first of each month. The Landlord stated that K.S. paid \$500.00 of the \$700.00 security deposit, but there was no security deposit required or paid by the Tenant.

Landlord's Evidence and Submissions

- [6] The Landlord testified that it is unclear whether the Tenant is still living in the rental unit and that the unit is now occupied by other people who have been let in by the Tenant. The Landlord testified that the Tenant and people she has permitted within the rental unit have caused significant disturbances to other tenants. The Landlord testified that there have been constant loud noises, large gatherings, and people coming and going at the Residential Property throughout the night, since April or May of 2023. The Landlord testified that he has received ten complaints from one tenant, and twenty from another tenant regarding disturbances from the rental unit.

- [7] The Landlord testified that police have attended the Residential Property approximately twelve times due to various disturbances. The Landlord testified that he spoke with the Tenant over the phone in April or May of 2023 and warned her about the disturbances.
- [8] The Landlord testified that he was last in the rental unit in June of 2023 to fix a leaking toilet. The Landlord testified that he saw numerous people inside the rental unit and they would not identify themselves. The Landlord testified that the Tenant was not there. The Landlord further testified that he observed damage within the rental unit that he will need to fix.
- [9] The Landlord testified that he has attempted on numerous occasions to contact both K.S. and the Tenant without success. The Landlord testified that his phone calls have either gone unanswered or the phones were out of service. The Landlord testified that he last spoke with the Tenant in July of 2023. The Landlord testified that he received a phone call from the Tenant through an unknown number and that the Tenant was incoherent during the call.
- [10] The Landlord testified that he has not been paid the full amount of the monthly rent payments for August and September of 2023. The Landlord testified that the payments come from social assistance and do not cover the full monthly rent payments.

Tenant's Evidence and Submissions

- [11] The Tenant did not submit any evidence.

Analysis

- [12] The relevant sections of the Act instruct:

Landlord's right to possession restricted

51.(4) A landlord shall not regain possession of a rental unit unless

- (b) 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.*

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 notice for cause

61.(1) *A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:*

- (a) *the tenant does not pay the security deposit within 10 days of the date it is required to be paid under the tenancy agreement*
- (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;*
- (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.*

Powers of the Director

85.(1) *After hearing an application, the Director may make an order*

- (f) *directing a tenant to vacate the rental unit on a specified date.*

[13] Based on the totality of the evidence, the Officer finds that the Notice was properly served on the Tenant. The Tenant did not file a 'Section 75 Application' (Form 2A) with the Rental Office and is therefore deemed to have accepted the Notice, pursuant to subsection 60.(5) of the *Act*. The Officer therefore finds that the Landlord has established a valid basis for terminating the rental agreement.

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

Conclusion

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

[16] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on September 28, 2023, and the Tenant and all other 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 28, 2023, and the Tenant and all other 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 21st day of September, 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.