

Introduction

- [1] On August 3, 2023, the Tenants 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 July 31, 2023, effective August 31, 2023, (the "Notice"). The Notice was served on the Tenants by email on August 2, 2023. The Notice was served on the Tenants for the following reason:

You are repeatedly late in paying rent.

- [3] On September 21, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenants, a tenant witness, and the Landlord's Representative participated.

Issue to be Decided

- i. Do the Tenants have to vacate the Residential Property due to the Notice?

Summary of the Evidence

- [4] In September of 2017 C.M. and the Landlord entered into a verbal month-to-month tenancy agreement for the Residential Property. In October of 2019 G.O. moved in with C.M. and entered into a verbal month-to-month tenancy agreement for the Residential Property with the Landlord. The Residential Property consists of a single apartment in four-unit building. Rent is \$760.00 per month due on the first day of the month. A security deposit was paid but none of the parties knew how much it was.

Landlord's Evidence and Submissions

- [5] The Representative stated the Tenants are constantly late paying rent. He stated the Landlords asked the Representative to evict the Tenants and find new tenants. The Representative stated over the past two years the Tenants have only paid rent on time twice. The Representative submitted a rental payment summary into evidence covering August 1, 2021, to September 1, 2023.
- [6] The Representative stated he mostly communicates with G.O. as she is the one who usually sends the rent payments. He stated he has messaged her several times in the past to remind her to pay the rent. He stated he had never discussed eviction with the Tenants until the Landlords requested that he serve the Tenants with an eviction notice.

Tenants' Evidence and Submissions

- [7] G.O. admitted that the Tenants have been late with rent payments. She stated she has received texts from the Representative about paying rent. She stated she has ADHD and is not good with communicating. She stated she wants to fix the issue and will pay rent on time going forward.
- [8] C.M. stated that if the Representative would have given the Tenants a warning about paying rent late then the Tenants would have fixed the problem.

- [9] W.W. stated she is the mother of G.O. She stated she was not aware the Tenants were late in paying their rent until G.O. advised her of the eviction notice. She stated G.O. does not communicate well and did not realize how big of an issue this was. She stated the Tenants will pay rent on time from now on.

Analysis

- [10] The Landlords' reason for the Notice is pursuant to subsection 61.(1)(b) 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:

(b) the tenant is repeatedly late in paying rent.

- [11] The Representative testified the Tenants have only paid rent on time twice in the past two years. The Representative submitted a rental summary sheet into evidence. The Officer notes that between August 1, 2021, and September 1, 2023, the Tenants have been late in paying rent twenty-four times and have only paid on time twice. Furthermore, the Officer notes that during that time all but three of the rental payments were sent as partial payments during each month.
- [12] The Tenants did not dispute that they had been late in paying rent. The Tenants submitted that if they had been warned about the late rent payments then they would have paid rent on time. The Officer notes that G.O. agreed the Representative had messaged her several times to pay the rent as it was late. Therefore, the Officer is satisfied that the Representative had warned the Tenants about paying the rent on time.
- [13] The Officer finds that based on the totality of the evidence the Landlords have provided sufficient evidence to establish that the Tenants have breached subsection 61.(1)(b) of the Act.

Conclusion

- [14] The Notice is valid and the Application is denied.
- [15] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on October 31, 2023. The Tenants and all occupants shall vacate the Residential Property by this time and date.

IT IS THEREFORE ORDERED THAT

- A. The Notice is valid and the Application is denied.
- B. The tenancy agreement between the parties shall terminate effective 5:00 p.m. on October 31, 2023. The Tenants and all occupants shall vacate the Residential Property by this time and date.

DATED at Charlottetown, Prince Edward Island, this 26th 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 **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.