

## Introduction

- [1] On September 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 the following remedy:

*An order that 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 a *Landlord Notice of Termination* (Form 4A) dated July 26, 2023 effective August 31, 2023 (the "Notice"). The Notice was served by the Landlord for the following reason:

*You have failed to comply with a material term of the tenancy agreement.*

- [3] All documents were properly served on the parties.
- [4] On October 5, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant did not appear. A representative and witness appeared for the Landlord.

## Issue to be Decided

- i. Does the Tenant have to vacate the Residential Property due to the Notice?

## Summary of the Evidence

- [5] In August 2017 the Landlord and the Tenant entered into a written month-to-month tenancy agreement for the Residential Property. The Residential Property is one half of a duplex. Rent is \$260.00 due on the first day of the month. A security deposit was not required.

### Landlord's Evidence and Submissions

- [6] K.C. testified that the Tenant allowed garbage to collect in the backyard of the Residential Property. The garbage got so bad that the Landlord received bylaw violation notices. K.C. testified that she talked to the Tenant about the garbage issue, however, the issue continued even after the first clean up in April 2023. K.C. testified that there was an inspection of the rental unit in July 2023. The condition of the rental unit was poor. Numerous issues have existed in the Residential Property, where RCMP were called.
- [7] R.C. testified as a witness to the condition of the Residential Property. R.C. removed and cleaned the garbage from the Residential Property. The Landlord submitted into evidence numerous photographs of the Residential Property and invoices as a result of cleaning and repairing the Residential Property.

### Tenant's Evidence and Submissions

- [8] The Tenant did not participate at the hearing and did not submit any evidence.

## Analysis

- [9] The Landlord's reason for terminating the tenancy agreement is pursuant to sub-subsection 61.(1)(h) of the *Act*, which states:

***Landlord's notice for cause***

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

*The tenant*

*Has failed to comply with a material term of the tenancy agreement, and*

*Has not corrected the situation within a reasonable time after the landlord has given written notice to do so.*

- [10] The Officer notes that subsections 61.(5) and (6) of the *Act* states:

***Tenant may dispute notice***

*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.*

***Tenant presumed to accept notice***

*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.*

- [11] Based on the totality of the evidence, the Officer finds that the Notice was properly served on the Tenant. Further, the Tenant did not file a 'Section 75 Application' (Form 2A) with the Rental Office within 10 days of receiving the Notice. Therefore, the Tenant is deemed to have accepted the Notice pursuant to subsection 61.(6) of the *Act*. The Landlord has established valid grounds for terminating the tenancy agreement. The Application is allowed.

- [12] Pursuant to subsection 85.(1)(f) of the *Act*, which states:

***Powers of the Director***

*After hearing an application, the Director may make an order directing a tenant to vacate the rental unit on a specified date.*

The Officer finds that the tenancy agreement shall terminate effective 5:00 p.m. on October 13, 2023. The Tenant shall vacate the Residential Property by this time and date.

## Conclusion

- [13] The Notice is valid and the Application is allowed.
- [14] The tenancy agreement between the parties shall terminate effective **5:00 p.m. on October 13, 2023**. The Tenant 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 October 13, 2023**. The Tenant shall vacate the Residential Property by this time and date.
- B. A certified copy of Order LD23-470 may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

**DATED** at Charlottetown, Prince Edward Island, this 6th day of October, 2023.

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(sgd.) Cody Burke

Cody Burke  
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.