

Introduction

- [1] On August 28, 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 4) dated August 25, 2023, effective October 25, 2023, (the "Notice"). The Notice was served on the Tenant personally on August 25, 2023. The Notice was served on the Tenant for the following reason:

I want possession of the premises for occupation by my children.

- [3] On October 3, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant, a Tenant witness, the Tenant's translator, and the Landlords participated.

Issue to be Decided

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

Summary of the Evidence

- [4] On May 1, 2021, the Tenant and the Landlord entered into a written fixed-term tenancy agreement for the Residential Property. On April 30, 2023, the tenancy agreement converted to a month-to-month agreement. The Residential Property consists of one half of a half-duplex. Rent is \$1,975.00 per month due on the first day of the month. A security deposit of \$1,850.00 was paid.

Landlord's Evidence and Submissions

- [5] The Landlord stated that he requires the Residential Property because his son wants to move into the property. He stated his son lives at home with he and his wife and his son wants to move into his own house. The Landlord stated his son used to live at the Residential Property and he is familiar with the property and the area. The Landlord stated his son will not be paying rent and he will just be taking over all the bills for the property.
- [6] The Landlord stated that his son wants to move into the property as soon as possible. He stated that if the Tenant is required four months' notice then his son will move into the property in the new year after the Tenant moves out.
- [7] The Officer asked the Landlord if his son was available to call into the hearing to provide affirmed evidence regarding his intention to move into the Residential Property. The Landlord stated his son was not available but his son could send a letter to the Rental Office after the hearing.

Tenant's Evidence and Submissions

- [8] The Tenant stated that he has been looking for another place to live but he is having a hard time finding a property in his price range for his family. He stated there is a housing crisis and housing is hard to find. He stated he does not want to move because his children go to a school in the area.
- [9] L.A. stated he lives in the Residential Property and there are several repairs which need to be completed. He stated the Tenant has contacted the Landlord several times and the repairs have not been completed.

Post-Hearing Evidence

- [10] On October 4, 2023, the Landlord's son ("C.S.") emailed a letter to the Rental Office. The letter stated that C.S. wishes to move out of his family home and move into the Residential Property. The letter was forwarded to the Tenant to provide any submissions before October 6, 2023, at 4:00 p.m.
- [11] On October 4, 2023, the Tenant submitted that he has a large family and does not know where he would go if he were ordered to leave the property.

Analysis

- [12] The Landlord's reason for the Notice is pursuant to subsection 62.(1) of the Act which states:

Landlord's notice for landlord's use of property

62.(1) A landlord who is an individual may end a tenancy by giving a notice of termination if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by

(a) the landlord;

(b) the landlord's spouse;

(c) a child, parent or a dependent of the landlord or the landlord's spouse; or

(d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child, parent or dependent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the residential property or mobile home park in which the rental unit is located.

- [13] Subsection 62.(1)(c) of the Act provides a landlord with the ability to terminate a tenancy agreement to allow a child, parent or a dependent of the landlord or the landlord's spouse occupancy of the Residential Property. Here, the Landlord wishes to terminate the tenancy agreement to allow the Landlord's son to take occupancy of the Residential Property.
- [14] The Officer notes that the Landlord testified his son C.S. wants to move out of the family home and move into the Residential Property. C.S. provided a letter indicating that he wishes to move out of the family home and into the Residential Property. The Tenant did not dispute the reason for the Notice. The Tenant stated he is having a hard time finding a new property in his price range and that he does not want to move because his children go to a school in the area.
- [15] Based on the totality of the evidence and reviewing the legislative requirements set out in subsection 62.(1) of the Act the Officer finds that the Landlord has established that they have served the Notice on the Tenant in good faith. The Officer finds that the Notice is valid and the Application is denied.
- [16] With regards to the vacate period in the Notice, the Landlord gave the Tenant two months to vacate the Residential Property (August 25, 2023, to October 25, 2023). The Officer notes that subsection 62.(2) of the Act states:

The date for termination specified in the notice of termination shall be at least four months after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term.

- [17] The Landlord stated the tenancy agreement converted to a month-to-month agreement in May 2023. Therefore, the Officer notes the date for termination shall be at least four months after the Notice was given, which was on August 25, 2023, and the day a period of the tenancy ends is the last day of each month. The Officer therefore finds that the tenancy agreement shall end on December 31, 2023.

Conclusion

- [18] The Notice is valid and the Application is denied.
- [19] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on December 31, 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 December 31, 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 10th day of October, 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.