

## Introduction

- [1] On September 11, 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:

*To request an order directing my tenant to pay outstanding rent; and*

*To request my tenant vacate the rental unit and ordering the Sheriff to put me into possession of the rental unit.*

- [2] Attached to the Application was an Eviction Notice (Form 4) dated August 15, 2023, effective August 25, 2023, (the "First Notice"). The First Notice was served on August 25, 2023, for the following reason:

*You have not paid your rent in the amount of \$1,900.00.*

- [3] Attached to the Application was an Eviction Notice (Form 4) dated September 4, 2023, effective September 14, 2023, (the "Second Notice"). The Second Notice was served on September 4, 2023, for the following reason:

*You have not paid your rent in the amount of \$3,800.00.*

- [4] On October 5, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). A Landlord Representative participated but the Tenant did not participate. All documents were properly served on the parties.

## Issues to be Decided

- i. Does the Tenant have to vacate the Residential Property due to the Notice?
- ii. Does the Tenant owe the Landlord rent?

## Summary of the Evidence

- [5] In March of 2023 the Landlord and the Tenant entered into a written fixed-term tenancy agreement for the Residential Property. The Residential Property consists of a single-family house. Rent is \$1,900.00 per month due on the first day of the month. A security deposit of \$1,900.00 was paid.

## Landlord's Evidence and Submissions

- [6] The Representative stated the Tenant owes rent for September 2023 and October 2023 in the amount of \$3,800.00. The Representative submitted a copy of a text message exchange between the Representative and the Tenant in which the Tenant acknowledged that he will pay the Landlord \$3,800.00 on September 23, 2023. Rent for August in the amount of \$1,900.00 was paid on September 23, 2023, and the Landlord submitted a copy of this e-transfer notice into evidence. September and October 2023 rent are still outstanding.

## Tenant's Evidence and Submissions

- [7] The Tenant did not provide any evidence or submissions.

## Analysis

[8] The Act states:

***Tenant shall pay rent when due***

19. (1) *A tenant shall pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has an express right under this Act to deduct or withhold all or a portion of the rent.*

***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.*

[9] Based on the totality of the evidence, the Officer finds that the Notices were 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 Notices. Therefore, the Tenant is deemed to have accepted the Notices pursuant to subsection 60.(5) of the Act. The Landlord has established valid grounds for terminating the tenancy agreement.

[10] The Officer further finds that the Landlord has established a valid basis for terminating the tenancy agreement due to non-payment of rent in the amount of \$3,800.00 for September and October 2023 and that the Tenant owes the Landlord \$3,800.00 in outstanding rent.

[11] Subsection 85.(1)(b) of the *Act* states:

*After hearing an application, the Director may make an order*

*directing the payment or repayment of money from a landlord to a tenant or from a tenant to a landlord.*

## Conclusion

[12] The First Notice and Second Notice are valid and the Application is allowed.

[13] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on October 19, 2023. The Tenant and all occupants shall vacate the Residential Property by this time and date.

[14] The Tenant shall pay the Landlord \$3,800.00 forthwith upon receipt of this Order.

## IT IS THEREFORE ORDERED THAT

- A. The tenancy agreement between the parties shall terminate effective 5:00 p.m. on October 19, 2023. The Tenant and all occupants shall vacate the Residential Property by this time and date.
- B. The Tenant shall pay the Landlord \$3,800.00 forthwith upon receipt of this Order.
- C. 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 12th day of October, 2023.

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(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.