

Introduction

- [1] On October 3, 2023, the Tenant filed a Tenant Application to Determine Dispute (Form 2A) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application is disputing a Landlord Notice of Termination pursuant to subsection 63.(6) of the *Act*.
- [2] Attached to the Application was a Landlord Notice of Termination (Form 4B) dated September 25, 2023, effective November 25, 2023, (the "Notice"). The Notice was served on the Tenant for the following reason:

A buyer wants possession of the rental unit for the buyer.

- [3] On September 25, 2023, the Landlord served the Notice on the Tenant by hand delivery.
- [4] On October 17, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant and a representative for the Landlord (the "Representative") participated in the hearing.

Issue to be Decided

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

Summary of the Evidence

- [5] In April 2016, the Tenant and a previous landlord for the Residential Property entered a written month-to-month tenancy agreement. The Landlord acquired the Residential Property on August 24, 2017. The Residential Property is a mobile home. Rent is \$562.00 per month, due on the first of each month. The parties were unsure whether a security deposit had been paid.

Tenant's Evidence and Submissions

- [6] The Tenant testified that he is not disputing the validity of the sale of the Residential Property, but he is seeking more time to find another place to live. The Tenant testified that he has been seeking another rental unit around the same community and for a similar price, but has been unsuccessful.

Landlord's Evidence and Submissions

- [7] The Representative testified that the Landlord is in the process of selling all seven mobile homes located in this mobile home park.
- [8] The Representative testified that the Residential Property is being sold to a purchaser, with a closing date of November 26, 2023. The Representative testified that an agreement of purchase and sale had been signed between the Landlord and the purchaser. The Representative submitted into evidence a sworn statement from the purchaser stating that the purchaser has agreed to purchase the Residential Property and plans to personally occupy it.

Analysis

- [9] The Landlord's reason for terminating the tenancy agreement is pursuant to subsections 63.(1) and (3) of the *Act*, which state:

63. Landlord's notice when purchaser personally requires unit

(1) A landlord of a residential property that contains fewer than three rental units who has entered into an agreement of purchase and sale of the residential property may, on behalf of the purchaser, give the tenant of a rental unit in the residential property a notice of termination if the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation by

(a) the purchaser.

Affidavit required

(3) A notice of termination under subsection (1) or (2) is valid only if the tenant has been provided with a sworn affidavit certifying that the purchaser in good faith requires possession of the rental unit for a purpose set out in subsection (1) or (2).

[10] The Officer notes that in matters where there is a dispute over a Notice of Termination by the Landlord, it is the Landlord's burden or onus to prove, on a balance of probabilities, any and all reasons alleged in the Notice.

[11] Based on the totality of the evidence provided, the Officer finds that the Landlord has established a valid basis to terminate the tenancy agreement due to the purchaser's personal occupation of the Residential Property, pursuant to sub-subsection 63.(1)(a) of the Act. The Officer notes that the Landlord has signed an agreement of purchase and sale with the purchaser, and has provided a signed affidavit from the purchaser indicating that she intends to reside in the Residential Property, as required under subsection 63.(3) of the Act.

[12] The Officer finds that the Landlord should have listed November 30, 2023 as the Tenant's effective vacate date on the Notice, pursuant to sub-subsection 63.(4)(a) of the Act, which states:

Period of notice

(4) The date for termination specified in a notice of termination given under subsection (1) or (2) **shall be the day a period of the tenancy ends** or, where the tenancy is for a fixed term, the end of the term, **and**

(a) for the purposes of clauses(1)(a) and (2)(a), shall be **at least two months after the notice is given.** [emphasis added]

[13] As the tenancy agreement is month-to-month and rent is due on the first day of each month, the tenancy periods end on the last day of each month. Pursuant to sub-subsection 63.(4)(a) of the Act, the earliest date that a period of the tenancy ends, which is also at least two months after the Notice was given, is November 30, 2023. The Officer finds that the tenancy agreement shall terminate on November 30, 2023.

[14] In addition to the foregoing, the Rental Officer wishes to highlight that at the time of termination, the Tenant may also be entitled to compensation payable by the Landlord, pursuant to section 72. of the Act, which states:

72. Compensation for Personal Use

A landlord **shall** compensate a tenant who receives a notice of termination of a tenancy under section 62 or 63 in an amount equal to **one month's rent plus reasonable moving expenses** in accordance with the regulations or offer the tenant another rental unit acceptable to the tenant. [emphasis added]

Conclusion

- [15] The Notice is valid and the Application is denied.
- [16] The tenancy agreement between the parties shall terminate effective **5:00 p.m. on November 30, 2023**, and the Tenant and all other occupants shall vacate the Residential Property by this time and date.
- [17] **Order LD23-492 was served on the parties by ordinary mail on October 24, 2023.**

IT IS THEREFORE ORDERED THAT

- A. The tenancy agreement between the parties shall terminate effective **5:00 p.m. on November 30, 2023**, and the Tenant and all other occupants shall vacate the Residential Property by this time and date.
- B. A certified copy of Order LD23-492 may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

DATED at Charlottetown, Prince Edward Island, this 24th day of October, 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 **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.