

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 was filed seeking:

To dispute a Notice of Termination (Form 4).

- [2] Attached to the Application was an Eviction Notice (Form 4A) dated October 1, 2023, effective October 31, 2023, (the "Notice"). The Notice was served on the Tenant for the following reasons:

*You are repeatedly late in paying rent;
You have not repaired damage to the rental unit;
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 19, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Tenant, a Tenant witness, the Landlord, and a Landlord witness participated.

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 of 2014, the Tenant and the Landlords entered into a verbal, month-to-month tenancy agreement for the Residential Property. The Residential Property consists of a rental unit in a nine-unit building. Rent is \$832.24 per month due on the first day of the month. A security deposit of \$375.00 was paid.

Landlord's Evidence and Submissions

- [6] The Landlord testified the Tenant has been repeatedly late in paying rent since moving into the rental unit. The Landlord submitted eight eviction notices for not paying rent into evidence dating back to September 2022 up to and including the Notice in October 2023. The Landlord stated the Tenant only paid the rent on time once in the past year.
- [7] On September 27, 2023, the Landlord performed an inspection inside the rental unit. The Landlord observed damage to some walls, holes in some walls, a missing radiator cover, cat feces on the floor, a dirty oven, stickers on walls and fixtures, and a poorly painted room. Photos were submitted into evidence. The Landlord stated she spoke to the Tenant about the damage and issues that she observed.
- [8] The Landlord stated she has received a verbal complaint from the tenant across the hall from the Residential Property that there is a smell of cat urine coming from the rental unit. The complaint was received in October 2023. A warning letter was issued to the Tenant on October 4, 2023, which was submitted into evidence. The Landlord stated when she performed the inspection on September 27, 2023, she could smell cat urine before she entered the rental unit.
- [9] The Landlord stated she performed a follow up inspection of the rental unit on October 11, 2023. She stated parts of the rental unit had been cleaned but there were cat feces on the floor again and the damaged walls were not repaired.

- [10] A.B. stated she assisted the Landlord with both inspections. She stated the smell of cat urine was very strong in the rental unit.

Tenant's Evidence and Submissions

- [11] The Tenant did not dispute that she has been late in paying rent in the past. She stated the Landlord has always been understanding when she was late with rent. She stated the late rent was because income support paid her later in the month and she was in between jobs. She stated the rent was always paid in the first week or two. The Tenant stated on November 1, 2023, her rent will be going directly to the Landlord from income support. She submitted an email from income support into evidence regarding the future payments.
- [12] The Tenant stated the Landlord gave her one week to clean the cat feces, food splatters behind her stove, and clean the ceiling. The Tenant stated those items have been cleaned and she submitted photos of the cleaned areas into evidence. The Tenant stated she was not aware the Landlord wanted all the other items addressed as well.
- [13] The Tenant stated she was not home when the Landlord performed the second inspection. She stated the litter box was cleaned the day before and she does not know why there was cat feces on the floor. The Tenant stated that she would repair the damage to the walls if the Landlord would let her stay.
- [14] L.L. stated she was present during the first inspection. She stated she could not smell the presence of any cats until she went down into the basement where the litter box was.

Analysis

- [15] The Officer begins by referencing the relevant law for the Application. The Landlords' reasons for terminating the tenancy agreement are pursuant to subsections 61.(1)(b),(g),(h) of the *Act*, which state:

61. Landlord's notice for cause

(1) 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;

(g) the tenant does not repair damage to the rental unit or residential property, as required under section 28(4), within a reasonable time;

(h) the tenant

(i) has failed to comply with a material term of the tenancy agreement, and

(ii) has not corrected the situation within a reasonable time after the landlord has given written notice to do so.

- [16] The Landlord testified the Tenant is repeatedly late in paying rent and the Tenant has only paid rent on time once in the past year. The Tenant did not dispute that she had been late paying rent but stated she was between jobs and income support does not pay her until later in the month.
- [17] The Landlord testified the Tenant has not repaired the damage to the rental unit within a reasonable time. The Landlord inspected the rental unit on September 27, 2023, and spoke to the Tenant about the damaged walls, missing radiator cover, and cleanliness issues. The Landlord stated the damaged walls and radiator cover had not been repaired upon a second inspection on October 11, 2023.

- [18] The Landlord testified 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. The Landlord stated on October 4, 2023, Tenant was given a written warning about the smell of cat urine coming from the rental unit. The Landlord stated on October 11, 2023, the smell of cat urine was still present in the rental unit.
- [19] The Officer finds that based on the totality of the evidence the Landlord has provided sufficient evidence to establish that the Tenant has breached subsections 61.(1)(b),(g),(h) of the *Act*. The Officer finds that the Notice is valid and the Application is denied.
- [20] Pursuant to subsection 85.(1)(f) of the *Act*, which states:

85. Powers of the Director

- (1) *After hearing an application, the Director may make an order*
- (f) *Directing a tenant to vacate the rental unit on a specified date.*

Conclusion

- [21] The Notice is valid and the Application is denied.
- [22] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on November 30, 2023. The Tenant and all occupants shall vacate the Residential Property by this time and date.
- [23] The Tenant is responsible to pay November 2023 rent in full and on time.
- [24] Order LD23-495 was served on the parties by email on October 23, 2023.

IT IS THEREFORE ORDERED THAT

- A. The tenancy agreement between the parties shall terminate effective 5:00 p.m. on November 30, 2023. The Tenant and all occupants shall vacate the Residential Property by this time and date.
- B. The Tenant is responsible to pay November 2023 rent in full and on time.
- C. A certified copy of Order LD23-495 may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

DATED at Charlottetown, Prince Edward Island, this 23rd 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 **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.