

Introduction

- [1] On November 3, 2023 the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office.
- [2] Attached to the Application was an *Eviction Notice* (Form 4(A)) (the "Notice") dated October 27, 2023 effective November 30, 2023. The Notice was served to the Tenant on October 27, 2023 for the following reasons:

*You or someone you have allowed on the property have disturbed or endangered others;
and
You or someone you have allowed on the property have engaged in illegal activity on the property.*

- [3] On November 16, 2023 a teleconference hearing was held before the Residential Tenancy Officer (the "Officer") for determination of the Application. The attendees of the hearing confirmed receipt of the evidence package.
- [4] The Officer notes that the Landlords and the Tenant are the parties to this decision. The Subtenant's participation at the hearing was in the capacity of a witness, not a party.

Issue to be Decided

- [5] Does the Tenant, Subtenant and all occupants have to vacate the Rental Unit pursuant to the Notice?

Summary of the Evidence

- [6] The Landlords and the Tenant are parties to a written, month-to-month tenancy agreement dated March 1, 2021. Rent in the amount of \$959.50 is due on the first day of the month and the parties were uncertain of the security deposit details. The Subtenant moved into the Rental Unit around 2016. The Tenant and the Subtenant are currently parties to a sublet agreement. The Rental Unit is a two-bedroom, one-bathroom apartment located in an eighteen-unit building with three floors (the "Residential Property").
- [7] The Landlords' evidence is summarized as follows. The Landlords have received written complaints against the Subtenant from the tenants of four other units in the Residential Property. The details of these complaints are outlined in the evidence package. The complaints provide evidence of noise at the Rental Unit late at night and early in the morning on numerous occasions.
- [8] The Landlords also submitted into evidence an email from a pest control contractor which states that, as of October 4, 2023, the Rental Unit appeared to be the epicenter of a cockroach situation. The contractor stated that there was garbage, spoiled food and drug paraphernalia in the Rental Unit at that time.
- [9] The Tenant's evidence is summarized as follows. The Representative requested evidence from the Subtenant regarding the Notice, however, the Subtenant did not provide any evidence. The Representative stated that he believes what he heard from the Landlords at the hearing.
- [10] The Subtenant's evidence is summarized as follows. The Subtenant did not receive warnings from the Landlords or Tenant prior to service of the Notice and the Subtenant denied the claims in the Notice. The Subtenant raised issue with the door locking system of the Residential Property.

Analysis and Conclusion

- [11] The Landlords' first reason for terminating the tenancy with the Tenant is pursuant to clause 61(1)(d) of the *Act*, which states:

(d) the tenant or a person permitted on the residential property by the tenant has
(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
(iii) put the landlord's property at significant risk;

- [12] The Officer has reviewed the testimony and documentary evidence regarding this dispute. The Officer is satisfied by the particulars of the written complaints from the tenants of four units in the Residential Property that the Subtenant has engaged in behaviour that has significantly interfered with and unreasonably disturbed other occupants. The complaints provide corroborating evidence of loud noise at the Rental Unit late at night and early in the morning. The Officer was not convinced by the Subtenant's denials and alternative characterizations of the events that led to service of the Notice due to the overwhelming evidence brought forward by the Landlords.
- [13] The Officer notes that a warning to the Subtenant was not a required step before service of the Notice pursuant to clause 61(1)(d). The Landlords have established a breach of this clause and it is therefore unnecessary for the Officer to determine whether a breach of clause 61(1)(e) (illegal activity) also occurred.
- [14] The Notice is valid and the Application is denied. The Tenant, Subtenant and all occupants must vacate the Rental Unit by the time and date stated below.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the Landlords and the Tenant shall terminate effective **5:00 p.m. on November 30, 2023**. The Tenant, Subtenant and all occupants must vacate the Rental Unit by this time and date.
2. 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 20th day of November, 2023.

(sgd.) Andrew Cudmore
Andrew Cudmore
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.