

Introduction

- [1] On November 27, 2023 the Landlord filed a *Landlord Application to Determine Dispute* (Form 2(B)) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application seeks vacant possession of the Rental Unit and an order for the Sheriff to put the Landlord in possession, which is the subject of this decision. The Application also requests a monetary order against the Tenant for unpaid rent, which is the subject of Order LD23-575.
- [2] Attached to the Application was a *Notice of Termination by Lessor of Rental Agreement* (Form 4(A)) served on November 2, 2023 for non-payment of rent, effective November 22, 2023 (the "Notice").
- [3] On November 27, 2023 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for 1:00 p.m. on December 7, 2023, along with a copy of the Application.
- [4] On December 1, 2023 the Rental Office emailed the parties an evidence package.
- [5] On December 7, 2023 the Representative, on behalf of the Landlord, participated in a teleconference hearing with the Residential Tenancy Officer (the "Officer"). The Officer telephoned the Tenant at 1:07 p.m. but there was no response and it was not possible to leave a voicemail message. The Officer waited until 1:10 p.m. before proceeding with the hearing in the absence of the Tenant. The hearing concluded at 1:37 p.m.

Issue to be Decided

- i. Does the Tenant have to vacate the Rental Unit pursuant to the Notice?

Summary of the Evidence

- [6] The Landlord's evidence is summarized as follows. The former owner of the Rental Unit and the Tenant entered into a written, fixed term tenancy agreement for the period of January 1, 2023 to March 31, 2023. The Landlord purchased the Rental Unit in March of 2023 and the tenancy continued on a month-to-month basis. Rent in the amount of \$1,000.00 is due on the first day of the month and a \$500.00 security deposit was paid.
- [7] On November 2, 2023, the date the Notice was served, the Tenant had rental arrears totaling \$1,020.00.
- [8] On November 23, 2023 the Tenant paid \$940.00 and \$80.00 of rental arrears remained.
- [9] On November 24, 2023 the Representative advised the Tenant that the Landlord was still moving forward with the eviction. The Tenant has not made further payments and December 2023 rent also remains outstanding.
- [10] The Landlord submitted a rent ledger showing the history of payments since April 1, 2023.

Analysis and Conclusion

- [11] The Landlord's basis for terminating the tenancy is pursuant to subsection 60(1) of the *Act*, which states:

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.

- [12] The Landlord's undisputed evidence establishes that rental arrears of \$1,020.00 were outstanding as of November 2, 2023, the date the Notice was served. The Tenant did not pay the rental arrears within ten days and did not file an application disputing the Notice. As a result, the Tenant is also deemed to have accepted the Notice.
- [13] For the reasons above, the Officer finds that the Notice is valid and the Application is allowed. The Tenant and all occupants must vacate the Rental Unit by the timeline stated below.
- [14] The Tenant owes rental arrears to the Landlord in the amount of \$80.00 for November 2023, plus the rent for 14 days in December (\$451.61; 14 days divided by 31 days multiplied by \$1,000.00), in the total amount of \$531.61.
- [15] As noted above, the Landlord's monetary claim is the subject of Order LD23-575.

IT IS THEREFORE ORDERED THAT

- 1. The tenancy between the parties shall terminate effective **5:00 p.m. on December 14, 2023**. The Tenant 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 7th day of December, 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.