

## Introduction

- [1] On January 4, 2024 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 an earlier termination of the tenancy agreement and granting the Landlord possession of the rental unit pursuant to clauses 61(7)(a) and (b) of the *Residential Tenancy Act* (the "Act").
- [2] Further, the Application seeks an order that the Tenant pay outstanding rent in the amount of **\$495.00**.
- [3] All documents (including the Notice of Hearing and Evidence Package) were properly served to the parties in accordance with subsection 100(1) of the *Act*.
- [4] A teleconference hearing was scheduled for 9:00 a.m. on January 12, 2024 before a Residential Tenancy Officer (the "Officer"). The Landlord appeared with their legal counsel. The Tenant was not present at the scheduled time. The Officer delayed the proceeding for (10) ten minutes and attempted to contact the Tenant without success. The hearing proceeded in the Tenant's absence.
- [5] At approximately the (33) thirty-three-minute mark of the hearing, the Tenant called into the hearing. The Tenant was updated and provided a summary of the testimony, evidence and submissions presented by the Landlord and the hearing continued. However, after providing some testimony and hearing the Landlord's rebuttal, the Tenant decided she no longer wished to participate in the hearing and asked to leave. The Officer advised she had the opportunity to provide a response to the Landlord's submissions/rebuttals, however, permitted the Tenant to be dismissed if she wished. The Tenant exited the hearing and the Landlord concluded his submissions.

## Issues to be Decided

- i. Is an earlier termination of the tenancy agreement warranted?
- ii. Does the Tenant owe outstanding rent?

## Summary of the Evidence

- [6] On August 18, 2016 the Landlord and the Tenant entered into a written fixed term tenancy agreement for a rental unit on the Residential Property. The Residential Property is a three-unit building. The fixed term expired and automatically converted to a month-to-month agreement. Rent is \$743.00 due on the first day of the month. A security deposit of \$347.50 was required and paid.

### Landlord's Evidence and Submissions

- [7] The Landlord submitted (23) twenty-three pages of documents into evidence including a copy of the tenancy agreement, news articles, press releases, a signed affidavit, and an eviction notice dated September 7, 2023 for non-payment of rent.
- [8] The Landlord testified that on December 29, 2023 he received a call from the police about a warrant and a police operation which was about to happen at the rental unit at the Residential Property. The police operation concluded with an individual being arrested and charged for various offences. The Landlord testified that the individual was a permitted guest of the Tenant. The events which happened on December 29, 2023 resulted in a significant interference of the Landlord's lawful rights and the health and safety of other tenants in the Residential Property.
- [9] The Landlord testified that he was concerned that the comments in the Tenant's written submission suggested that the Tenant was defending the individual. The Landlord testified that he was concerned that if the individual was released he could return to the Residential Property.

- [10] The Landlord argued that the requirements of an earlier termination is that the *Tenant or a person permitted on the Residential Property* has breached one or more of the listed items in the *Act*. The Landlord argued that the Tenant permitted this individual into the Residential Property.
- [11] The Landlord testified that on December 25, 2023 the Tenant paid \$280.00 for January 2024 rent. The Tenant owes \$495.00 in outstanding rent for January 2024.

#### **Tenant's Evidence and Submissions**

- [12] The Tenant submitted (4) four documents into evidence which include a written statement, a letter from the police and an e-mail exchange with the police.
- [13] The Tenant denied having any knowledge of the individual's criminal record and/or the police investigation. The Tenant admitted to permitting the individual to stay in the rental unit for a day or two. The Tenant testified that she cooperated with the police and submitted into evidence a letter from the police. The letter indicated that the Tenant was not suspected of any crimes and that the Tenant cooperated. The Tenant testified that there were no guns or drugs found in the rental unit and that she is not in contact with the individual.
- [14] The Tenant testified that she is actively looking for a new place to live, however, in this current market it is difficult to find new accommodations.
- [15] The Tenant admitted to owing the outstanding rent, and that the Landlord will not communicate with her. The Tenant has the money for the rent but was not sure how to pay the rent or what steps were required with the on-going proceedings.

### **Analysis**

#### **Issue i. Is an earlier termination of the tenancy agreement warranted?**

- [16] The Application is made in accordance to section 75 of the *Act* and seeks an earlier termination of the tenancy agreement pursuant to clause 61(7)(a) and (b). The relevant law is as follows:

***Landlord may request earlier termination date***

- (7) *Despite subsection (3), a landlord who wishes to give notice of termination under subsection (1) may make an application to the Director to request an order*
- (a) *ending a tenancy agreement on a date that is earlier than the tenancy would end if the notice of termination were given under subsection (1); and*
- (b) *granting the landlord an order of possession in respect of the rental unit.*

**Requirements for earlier period of notice**

- (8) *The Director shall grant an application under subsection (7) only if the Director is satisfied that*
- (a) *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,*
  - (iii) *put the landlord's property at significant risk,*
  - (iv) *engaged in illegal activity that*
    - (A) *has caused or is likely to cause damage to the landlord's property,*
    - (B) *has adversely affected or is likely to adversely affect the equity enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
    - (C) *has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord,*
  - (v) *caused unreasonable damage to the residential property, or*
  - (vi) *frustrated the tenancy agreement; and*
- (b) *it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice of termination under subsection (1) to take effect.*

[17] The Application seeks a determination that the tenancy agreement ought to be terminated earlier than what would generally be required for a for-cause eviction. In such applications, it is the Landlord's burden to prove, on a balance of probabilities, the two requirements set out in clause 61(8)(a) and (b). This means the Landlord must provide sufficiently clear, convincing and cogent evidence that first the Tenant or a person permitted on the Residential Property has breached one of the listed items in clause 61(8)(a). Second, the Landlord must establish that it would be unreasonable or unfair to the landlord or other occupants of the Residential Property to wait for a notice of termination to take effect as required by clause 61(8)(b).

**The First Requirement**

[18] The evidence and testimony of the parties establishes that the Tenant (by their own admission) permitted the individual to stay in the rental unit "for one or two nights" because of an alleged argument between the individual and their girlfriend. These two nights were December 28, 2023 and December 29, 2023. On December 29, 2023 the police executed a warrant and arrested the individual. The Landlord argued that the knowledge and/or intention of the Tenant is irrelevant to the legal analysis. The Officer agrees that clause 61(8)(a) only requires *the tenant or a person permitted on the residential Property by the tenant...* and the evidence is clear that the Tenant permitted this individual into the Residential Property.

[19] Further, the evidence suggests to the Officer that the individual being permitted into the Residential Property seriously and/or significantly interfered with other occupants and the Landlord of the Residential Property. Further, the testimony of the Landlord regarding the conversation with the police prior to the execution of the warrant on December 29, 2023 suggests to the Officer that the police were prepared for numerous of dangerous scenarios and that the safety and the lawful right of the Landlord and the other occupants was jeopardized. The Officer is satisfied that the Landlord established the requirement prescribed in clause 61(8)(a).

**The Second Requirement**

- [20] After considering the facts of this case and reviewing the documentary evidence and the testimony of the parties the Officer finds that the Landlord has established the second requirement. The Officer finds that the seriousness of the alleged offences, the seriousness of the police operation which happened on December 29, 2023 and the overall uncertainty around the individual's pending legal matters, and questions around if the individual would return to the Residential Property, it would be unfair or unreasonable to the Landlord or the other occupants of the Residential Property to wait longer for an eviction. Therefore, the Officer is satisfied that the Landlord has established the requirement prescribed in clause 61(8)(b).
- [21] The Landlord has established valid grounds for an earlier termination of the tenancy agreement. Therefore, the Application is allowed. The tenancy agreement shall terminate effective January 19, 2024 at 5:00 p.m.

**Issue ii. Does the Tenant owe outstanding rent?**

- [22] Based on the undisputed testimony and evidence of the parties the Officer concludes that the Tenant owes \$495.00 in rental arrears for January 2024 rent. The Tenant shall pay the outstanding arrears forthwith.

**Conclusion**

- [23] The Application is allowed.
- [24] The tenancy agreement shall terminate effective January 19, 2024 at 5:00 p.m. The Tenant and all occupants shall vacate the Residential Property by this date and time.
- [25] The Tenant shall pay the Landlord \$495.00 forthwith.
- [26] **Order LD24-011 will be served on the parties by e-mail on January 12, 2024.**

**IT IS THEREFORE ORDERED THAT**

- A. The tenancy agreement shall terminate effective January 19, 2024 at 5:00 p.m. The Tenant and all occupants shall vacate the Residential Property by this date and time.
- B. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.
- C. The Tenant shall pay the Landlord \$495.00 forthwith.

**DATED** at Charlottetown, Prince Edward Island, this 12th day of January, 2024.

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(sgd.) Cody Burke  
Cody Burke  
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.