

Introduction

- [1] On December 14, 2023, the Tenant filed a *Tenant Application to Determine Dispute* (Form 2A) (the “Application”) with the Residential Tenancy Office (the “Rental Office”) seeking to dispute a notice of termination.
- [2] Attached to the Application was a letter addressed to the Tenant from the Landlords, dated November 22, 2023, requesting the Tenant vacate the rental unit by January 1, 2024 (“the Notice”). The Tenant received the Notice as a part of the Landlords’ Island Regulatory and Appeals Commission (“IRAC”) appeal documents for Rental Order LD23-502, dated November 2, 2023.
- [3] All other relevant documents (including the Notice of Hearing and Evidence Package) were properly served in accordance with subsection 100.(1) of the *Act*.
- [4] On January 11, 2024, an in-person hearing was held before a Residential Tenancy Officer (the “Officer”). The Landlords and the Tenant 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 February 2017 the parties entered into a written month-to-month tenancy agreement for the Residential Property, which consists of a mobile home owned by the Landlords. Rent is \$404.46 due on the first day of the month. A security deposit was not required.

Landlords’ Evidence and Submissions

- [6] The Landlords did not submit any documentary evidence prior to the hearing. During the hearing the Landlords submitted several photographs into evidence. The photographs were taken in 2023 and depicted the area surrounding the Residential Property.
- [7] The Landlords testified that it will be financially difficult for them if they have to complete repairs to the rental unit as Ordered in Rental Order LD23-502. The Landlords do not receive very much rent and they can no longer afford to keep the rental unit as a long term-rental. They want the Tenant to vacate so they can close up the rental unit for the winter until May or June 2024. After that time the Landlords will decide what to do with the rental unit. They stated they may sell it or just keep it as a place for family to come visit.

Tenant’s Evidence and Submissions

- [8] The Tenant submitted several pages of documents into evidence including a written submission, photographs of the Residential Property, and a copy of Rental Order LD23-502.
- [9] The Tenant testified she received the Notice by email from the Landlords as a part of the Landlords’ IRAC Appeal documents. She stated it is not a valid Notice because it is not on an approved form. The Landlords have been trying to get her to vacate the rental unit for some time as there have been personal issues between the parties. The Tenant is trying to find another place to live but she is having a hard time finding another rental unit.

Analysis

Issue i: Does the Tenant have to vacate the Residential Property due to the Notice?

[10] In such applications where there is a dispute over an eviction notice it is the landlord's burden to prove, on a balance of probabilities, their reason(s) for terminating the tenancy agreement. This means the landlord must provide the decision-maker with sufficiently clear and convincing evidence to prove their claim.

[11] The Landlords' reason for wanting to terminate the tenancy agreement is because the Landlords can no longer afford to operate the Residential Property as a long-term rental. Division 3 of the *Act* states the different reasons a Landlord may end a tenancy. The Officer notes that financial hardship is not a valid reason for terminating a tenancy agreement pursuant to the *Act*. The *Act* states:

51.(1) A tenancy shall be terminated only in accordance with this Act.

[12] The Officer further notes the Landlords did not serve the Tenant with an eviction notice by using an approved form (Form 4(A) or Form 4(B)) pursuant to section 53. The Notice was simply a letter which was addressed to the Tenant and explained the reason for termination. The *Act* states:

*53. In order to be effective, a notice of termination shall be in writing and shall
(f) when given by a landlord, be in the approved form.*

[13] After reviewing the documentary evidence and the testimony of the parties, the Officer finds that the Landlords have failed to establish valid grounds for terminating the tenancy agreement and failed to provide the Notice with an approved form. The Notice is not valid and the Application is allowed. The tenancy agreement between the parties shall continue in full force and effect.

Conclusion

[14] The Application is allowed.

[15] The tenancy agreement between the parties shall continue in full force and effect.

IT IS THEREFORE ORDERED THAT

A. The tenancy agreement between the parties shall continue in full force and effect.

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

(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 **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.