

## 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] Attached to the Application was an Eviction Notice (Form 4(A)) (the "Notice") dated January 4, 2024, effective February 29, 2024. The Notice was given to the Tenant for the following reasons:
- You or someone you have allowed on the property have disturbed or endangered others;*  
*You or someone you have allowed on the property have engaged in illegal activity on the property;*  
*Your or someone you have allowed on the property has caused damaged to the rental unit;*  
*You have failed to comply with a material terms of the tenancy agreement.*
- [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 1:00 p.m. on January 16, 2024, before a Residential Tenancy Officer (the "Officer"). The Representative appeared but 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.

## Issue to be Decided

- i. Is an earlier termination of the tenancy agreement warranted?

## Summary of the Evidence

- [5] In September or October 2023, a prior landlord and the Tenant entered into a verbal month-to-month tenancy agreement for the rental unit. Rent is \$800.00 due on the first day of the month. A security deposit of \$800.00 was required and paid.

### Landlord's Evidence and Submissions

- [6] The Landlord submitted several pages of documents into evidence including a copies of police reports, messages between the parties, witness statements, surveillance videos, and an eviction notice dated January 4, 2024.
- [7] The Representative testified that on January 4, 2024, police received a report of an unknown male entering the rental unit carrying a rifle. The police investigated the matter but were unable to determine if there was a firearm at the location. The Representative stated the Tenant told him it was a toy rifle. Police have attended the rental unit eight times between October 12, 2023, and December 31, 2023, which is documented in a letter from police.
- [8] A tenant in the building ("D.M.") submitted a statement indicating she notified the Representative that sometime between December 17-20, 2023, a female knocked on D.M.'s third floor window from the fire escape. The female asked to be let in so she could visit the Tenant in the rental unit. D.M. did not let the female into the building.

- [9] A tenant in the building ("C.W.") submitted a statement indicating police were called to the rental unit the first week the Tenant moved in because of loud noise. Individuals often ring C.W.'s buzzer late at night to get access to the building and rental unit. Individuals go in and out of the rental unit all night and will leave papers in the building's security door at night to be able to access the building and rental unit. The Representative stated the door buzzers had to be disconnected as a result of non-residents using the buzzers too much.
- [10] C.W. stated on December 31, 2023, individuals used a ladder and garbage cans to gain access to the rental unit. She stated the Tenant is allowing individuals who do not live in the building to use the building's laundry room. The Representative stated the individuals are also smoking in the laundry room.
- [11] C.W. stated on January 3, 2024, an individual was trying to pick the lock of the security door. C.W. spoke to the individual who stated he was related to the Tenant and was going to visit the rental unit. C.W. stated on January 4, 2024, she observed the Tenant and a male carrying a rifle go into the rental unit.
- [12] C.W. stated on January 8, 2024, two individuals were observed entering the rental unit from the fire escape. Police were called and the individuals were escorted out of the building. The Representative stated the surveillance videos submitted into evidence show the police escorting the individuals out of the rental unit and the building.

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

- [13] The Tenant submitted one document into evidence which stated she had no evidence to submit but she did have a witness who was present for some of the events. Neither the Tenant nor the Tenant's witness participated in the hearing.

### **Analysis**

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

- [14] The Application is made in accordance to section 75 of the *Act* and seeks an earlier termination of the tenancy agreement pursuant to clauses 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.*

[15] 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 clauses 61(8)(a) and (b). This means the Landlord must provide sufficiently clear and convincing 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**

[16] The Officer finds the Representative has submitted sufficient evidence, specifically the undisputed evidence of the Representative and the Landlord's documentary and video evidence, to establish that the Tenant has been allowing individuals into the building and the rental unit and those individuals have:

- (i) *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, and*
- (ii) *seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and*
- (ii) *put the landlord's property at significant risk.*

[17] The Officer notes that clause 61(8)(a) only states "*the tenant or a person permitted on the Residential Property by the tenant*" and the evidence is clear that the Tenant permitted these individuals into the building and rental unit. The Officer is satisfied that the Landlord has established the requirement prescribed in clause 61(8)(a).

#### **The Second Requirement**

[18] After considering the facts of this case and reviewing the documentary evidence and the testimony of the Representative, the Officer finds that the Landlord has established the second requirement. The Officer finds that due to the seriousness of the alleged occurrences by the individuals the Tenant is permitting on 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).

[19] The Officer finds the Landlord has established valid grounds for an earlier termination of the tenancy agreement and the Application is allowed. The tenancy agreement shall terminate effective January 26, 2024, at 5:00 p.m.

**Conclusion**

[20] The Application is allowed.

[21] The tenancy agreement shall terminate effective January 26, 2024, at 5:00 p.m. The Tenant and all occupants shall vacate the Residential Property by this date and time.

**IT IS THEREFORE ORDERED THAT**

- A. The tenancy agreement shall terminate effective January 26, 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.

**DATED** at Charlottetown, Prince Edward Island, this 18th day of January, 2024.

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(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.