

## Introduction

- [1] On January 10, 2024 the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application was filed pursuant to subsection 61(5) of the *Residential Tenancy Act* (the "Act") to dispute an *Eviction Notice* (Form 4(A)) dated January 6, 2024 effective February 6, 2024 (the "Notice").
- [2] The Notice was served to the Tenant on January 6, 2024 by posting it to the Rental Unit's door for the following reason:
- *You or someone you have allowed on the property has caused damage to the rental unit.*
- [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] On February 1, 2024 a teleconference hearing was held at 11:00 a.m. before a Residential Tenancy Officer (the "Officer"). The Tenant appeared, representing themselves. The Representatives appeared, representing the Landlord.

## Issue to be Decided

- i. Does the Tenant have to vacate the Residential Property due to the Notice?

## Summary of the Evidence

- [5] The Rental Unit is situated in a 12-unit apartment building (the "Residential Property"). On or around August 1, 2017 the Tenant and the former owner entered into a written tenancy agreement. The Landlord purchased the Residential Property in May 2020 and the tenancy continued. On May 20, 2022 the Landlord and the Tenant signed a written fixed-term tenancy agreement for the period of June 1, 2022 to May 31, 2023. The tenancy converted to a month-to-month agreement. Rent is \$703.51 due on the first day of the month. A security deposit of \$350.00 was paid at the start of the tenancy.

### Landlord's Evidence and Submissions

- [6] The Representatives submitted into evidence a photograph of a damaged door. The Representatives testified that the Tenant damaged the Rental Unit's front door. The Representatives took the photograph but could not recall the exact date that the photo was taken. The Representatives testified that they have received complaints from other tenants in the Residential Property. The Representatives testified that there are numerous other issues with the Tenant's actions and behaviour.

### Tenant's Evidence and Submissions

- [7] The Tenant admitted to breaking the Rental Unit's door. The Tenant testified that he was moving furniture and was locked out of the Rental Unit. The Tenant described using his shoulder to break the door open. The Tenant testified that the doorknob and the door has since been fixed. The Tenant testified that due to the hostile relationship with the Representatives he does not call them. The Tenant stated that he would replace the door if the Representatives required it. The Tenant testified that the Representatives unsuccessfully tried to evict him in December 2023.

## Analysis

[8] The Application is made in accordance to section 75 of the *Act* and seeks to dispute the Notice. The Landlord is seeking to terminate the tenancy in accordance with clause 61(1)(f) of the *Act*. The relevant law is as follows:

**61. Landlord's notice for cause**

- (1) A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:
- (f) the tenant or person permitted on the residential property by the tenant has caused unreasonable damage to a rental unit or the residential property.

[9] In such matters where there is a dispute over an *Eviction Notice* it is the landlord's burden to prove, on a balance of probabilities, any and all reasons alleged in the Notice. This means the landlord must provide sufficiently clear, convincing and cogent evidence to support their claim(s).

### The Effective Date

[10] The Officer notes that the Notice has an effective date of *February 6, 2024*. Clause 61(3) of the *Act* states:

**Period of notice**

- (3) A notice of termination under this section shall end the tenancy effective on a date that is
- (a) not earlier than one month after the date the notice is received; and
- (b) the day before the day that rent is payable under the tenancy agreement.

[11] As rent is due by the first day of the month, the Officer finds that the effective date of the Notice is automatically changed from February 6, 2024 to February 29, 2024, pursuant to section 54 of the *Act*.

### Damage to the Rental Unit

[12] The Officer finds that the Tenant's actions resulted in damage to the Rental Unit's door. However, based on the undisputed testimony from the parties, the Tenant has since fixed the door's knob and is willing to take the additional steps of replacing the door and providing the Representatives with new keys for the door. Despite the Tenant causing damage to the Rental Unit's door, the Officer does not find that the damage rises to a level which would justify terminating the tenancy agreement. Therefore, the Application is allowed and the Notice is dismissed. The tenancy agreement shall continue in full force and effect.

## Conclusion

[13] The Application is allowed and the Notice is dismissed.

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

[15] The Tenant is reminded to provide any keys to the Representative for the Rental Unit. Further, the Tenant should make best efforts to contact the Representatives if access to the Rental Unit is an issue. Further incidents which result in damage to the Rental Unit may result in the termination of the tenancy agreement.

[16] **Order LD24-041 will be served on the Landlord by e-mail on February 2, 2024.**

[17] **Order LD24-041 will be served on the Tenant by pick-up at the Rental Office as requested.**

**IT IS THEREFORE ORDERED THAT**

A. The Application is allowed and the Notice is dismissed.

B. The tenancy agreement shall continue in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 2nd day of February, 2024.

(sgd.) Cody Burke

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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 **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.