

Introduction

- [1] On February 7, 2024, the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office (the "Rental Office").
- [2] 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 29, 2024 effective February 29, 2024 (the "Notice"). The Notice was given to the Tenant for the following reason:
- You or someone you have allowed on the property have disturbed or endangered others.*
- [3] All relevant documents (including the Notice of Hearing and Evidence Package) were properly served in accordance with subsection 100.(1) of the *Act*.
- [4] On February 27, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord, three Landlord witnesses, 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] On June 1, 2022, the Tenant and the Landlord entered into a written month-to-month tenancy agreement for the Residential Property. Rent is \$1,597.00 due on the 1st day of the month. A security deposit of \$1,550.00 was required and paid. The Residential Property is in a triplex within a complex of other town houses owned by the Landlord.

Landlord's Evidence and Submissions

- [6] The Landlord submitted several videos, photographs, and documents into evidence, including an Affidavit sworn by the Landlord and messages between the parties. The Landlord stated after the Tenant moved in she started receiving demands from the Tenant at all hours by phone and text and the Tenant threatened to take legal action if the Landlord did not follow through. The Landlord had to block the Tenant's number as a result. The Tenant has been observed yelling at police officers outside the rental unit and had yelled profanities at subcontractors who were working at the property. The Landlord stated that on January 31, 2024, the Tenant assaulted a police officer at the rental unit and was charged as a result.
- [7] The Landlord stated other tenants have complained to the Landlord about the Tenant's behaviour which includes playing loud music at night, banging on walls, doors, and windows, yelling, screaming, and swearing at others, and intimidating other tenants of the property. The Tenant has posted TikTok videos about other tenants at the property. The Landlord stated she had spoken to the Tenant several times regarding her actions but the Tenant continues to disturb other tenants. The Landlord stated she submitted an Affidavit detailing the complaints from the other tenants as the other tenants are fearful of reprisal from the Tenant.
- [8] The Landlord stated J.H. lives in the unit next to the Tenant and she provided several videos to the Landlord. In a video from January 4, 2024, banging can be heard inside of J.H.'s unit coming from the rental unit. In a video from January 5, 2024, the Tenant can be heard yelling and swearing at police officers who can be seen outside of the rental unit. In a video from January 9, 2024, the Tenant can be observed holding up a light to J. H.'s doorbell camera and can be heard stating she will "wait" for J.H. Two videos from January 2024 show the Tenant giving the middle finger to J.H.'s doorbell camera and blowing kisses to the doorbell camera. These videos were entered as evidence by the Landlord.

- [9] J.H. attended the hearing and stated she lives in the unit next to the Tenant. J.H. stated she has been capturing the unwanted actions of Tenant on her doorbell and cellphone camera. J.H. has observed videos of the Tenant blowing kisses at her unit, standing outside of her unit with a light, and calling her names. Police have attended the rental unit on several occasions. The Tenant has thrown items at her window and will often bang on the walls between their units to disturb J.H. The Tenant put up a sign outside the rental unit with an arrow pointing to her unit which stated "This way to the wicked witch." J.H. does not feel safe in her unit with her children with the Tenant living next door.
- [10] J.H. stated the police attended to speak to the Tenant regarding the Tenant's actions after one of these incidents. J.H. stated the Tenant yelled at the police when they attended the rental unit. J.H.'s camera then went missing and the police returned and arrested the Tenant as a result. J.H. acknowledged she was informed the charges had been dropped against the Tenant for this incident and the no contact order that had been put in place had been removed.
- [11] L.R. attended the hearing and stated he was a contractor and had done work at the property. One day the Tenant arrived home and starting swearing at L.R. and then put some kind of sign in her window about the noise.
- [12] C.M. attended the hearing and stated he looks after the finances for the property. C.M. stated that the Landlord has financial obligations to meet and the Landlord is concerned that she may lose other tenants as a result of the Tenant's behaviour at the property.

Tenant's Evidence and Submissions

- [13] The Tenant submitted several documents into evidence including written submissions, messages between the parties, and note from a physician. The Tenant stated most of the complaints are because of issues between the Tenant and J.H. She tries to ignore J.H. but stated it is J.H. who causes the problems between them. She denied many of the accusations presented by the Landlord and Landlord's witnesses, such as banging on the walls. She stated that she had told the Landlord about her issues with J.H. but the Landlord has not addressed the issues.
- [14] The Tenant stated the police attended the rental unit one time because her ex-mother-in-law attended the rental unit and assaulted the Tenant. Police have attended the rental unit on other occasions for wellness checks for the Tenant and not as a result of anything criminal. The Tenant stated she has some medical issues which are addressed in the note from the physician as well as in her written submissions.
- [15] The Tenant stated she did yell at the police but it was because they would not provide her with a badge number and would not listen to her. She acknowledged that she was arrested for theft, but she denied taking anything and stated the charges were later dropped. The Tenant stated she cannot remember the incident L.R. spoke about but it could be the same incident when a loud compressor scared her son and she got mad at the contractor because the contractor should have waited until they got inside the rental unit before using the compressor.

Analysis

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

[16] The Officer begins by referencing the relevant law for the Application. The *Act* states:

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:

(d) 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, or

(iii) put the landlord's property at significant risk.

[17] In 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(s).

[18] The Officer specifically notes the testimony of the Landlord, which detailed complaints the Landlord has received from other tenants about the Tenant playing loud music, banging on walls, doors, and windows, yelling, screaming, and swearing, and intimidating other tenants and that police have been to the rental unit several times. The Officer also notes the photos and videos submitted by Landlord showing the Tenant yelling at police, blowing kisses and giving the middle finger to J.H.'s unit, standing outside of J.H.'s unit stating she will "wait" for J.H., making Tik-Tok videos referencing J.H., and putting up a sign outside the rental unit referencing J.H. as a "wicked witch".

[19] The Officer also notes the testimony provided by J.H. who stated the Tenant has thrown items at her window and will often bang on the walls between their units. J.H. also testified about the antagonistic and disturbing actions of the Tenant which were captured on video. She stated she has observed police attend the rental unit on different occasions and the Tenant was observed yelling at police. J.H. stated that the actions of the Tenant make her and her children feel unsafe in their home.

[20] After reviewing the documentary evidence and testimony of the parties, the Officer finds that the Landlord has provided sufficient evidence to establish that the Tenant's behaviour has breached subsection 61.(1)(d)(i) of the *Act* by significantly interfering with or unreasonably disturbing another occupant or the landlord of the Residential Property. The Officer finds this breach of the *Act* is significant enough to terminate the tenancy agreement between the parties.

Conclusion

[21] The Notice is valid and the Application is denied.

[22] The tenancy agreement between the parties shall terminate effective 5:00 pm on March 13, 2024. The Tenant shall vacate the Residential Property by this time and date.

IT IS THEREFORE ORDERED THAT

- A. The tenancy agreement between the parties shall terminate effective 5:00 pm on March 13, 2024. The Tenant shall vacate the Residential Property by this time and date.
- 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 6th day of March, 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 **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.