

Introduction

- [1] On March 11, 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 vacant possession of the Unit and an order for the Sheriff to put the Landlord in possession, which is the subject of this decision.
- [2] Attached to the Application was an *Eviction Notice (Form 4(A))* served to the Tenant on February 7, 2024 for non-payment of rent, effective February 17, 2024 (the "Notice"). The Officer notes that the correct effective date was February 27, 2024.
- [3] On February 28, 2024 the Landlord had filed an earlier application with the Rental Office for rent owing, which is the subject of Order LD24-106.
- [4] On March 14, 2024 the Rental Office mailed the parties notice of a teleconference hearing scheduled for 1:00 p.m. on March 26, 2024, along with a copy of the Application. On this date the Representative taped a copy of the notice of hearing and the Application to the door of the Unit.
- [5] On March 22, 2024 the Rental Office emailed the Landlord an evidence package. On this date the Representative taped a copy of the evidence package to the door of the Unit.
- [6] On March 26, 2024 the Representative participated in a teleconference hearing with the Residential Tenancy Officer (the "Officer"). The Rental Office telephoned the Tenant at 1:05 p.m. but the Tenant's number had been disconnected. The Officer waited until 1:10 p.m. before proceeding with the hearing in the absence of the Tenant. The hearing concluded at 1:19 p.m.

Issue to be Decided

- i. Does the Tenant and all occupants have to vacate the Unit pursuant to the Notice?

Summary of the Evidence

- [7] The Landlord's evidence is summarized as follows.
- [8] The Landlord and the Tenant entered into a written, one-year fixed term tenancy agreement that commenced on May 1, 2022. The tenancy converted to a month-to-month agreement at the end of the fixed term. Rent in the amount of \$1,024.85 is due on the first day of the month and a \$975.00 security deposit was paid.
- [9] On February 7, 2024 the Representative text messaged the Notice to the Tenant. The Representative also taped a copy of the Notice to the door of the Unit. The Representative served the Notice because the Tenant did not pay half of the rent due for February 2024, in the amount of \$512.43.
- [10] As of the hearing date the Tenant has not paid the balance of rent due for February 2024, in the amount of \$512.43. The Tenant also did not pay rent for March 2024, in the amount of \$1,024.85.
- [11] The Tenant has not served the Landlord with any Rental Office application.
- [12] The Tenant continues to reside in the Unit.

Analysis and Conclusion

[13] The Landlord's basis for terminating the tenancy is pursuant to subsection 60(1) of the *Act*, which states:

A landlord may end a tenancy if rent is unpaid after the day it is due, by giving a notice of termination effective on a date that is not earlier than 20 days after the date the tenant receives the notice.

[14] The Landlord's undisputed testimony and documentary evidence establishes that rental arrears of \$512.43 were outstanding as of February 7, 2024, the date that the Notice was served. Rent for March 2024, in the amount of \$1,024.85, also remains outstanding. The Tenant did not pay the rental arrears within ten days of service and did not file an application with the Rental Office disputing the Notice.

[15] For the reasons above, the Officer finds that the Notice is valid and the Application is allowed. The Tenant and all occupants must vacate the Unit by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties shall terminate effective **5:00 p.m. on April 3, 2024**. The Tenant and all occupants must vacate the Unit by this time and date.
2. 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 26th day of March, 2024.

(sgd.) Andrew Cudmore

Andrew Cudmore
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.