

Introduction

- [1] On April 16, 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. The Application also included a claim for rent owing, which is the subject of Order LD24-139.
- [2] Attached to the Application was an *Eviction Notice (Form 4(A))* served by the Landlord to the Tenant on March 21, 2024, effective April 11, 2024 (the "Notice"), for the following reasons:
- You have not paid your rent in the amount of \$5254; and*
You are repeatedly late in paying rent.
- Particulars of termination:*
- *Property is also a mess. Multiple notices from municipality.*
 - *Tried to work with tenant to settle rent owed.*
- [3] On April 17, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for 9:00 a.m. on April 25, 2024 (the "Notice of Hearing"), along with a copy of the Application.
- [4] On April 18, 2024 the Landlord had a copy of the Notice of Hearing and the Application delivered to an adult at the Unit. The Landlord also emailed a copy of the Application to the Tenant.
- [5] On April 22, 2024 the Rental Office emailed the parties an evidence package (the "Evidence Package").
- [6] On April 23, 2024 the Landlord had a copy of the Evidence Package taped to the Unit, near the front door.
- [7] At 9:00 a.m. on April 25, 2024 the Residential Tenancy Officer (the "Officer") and two representatives of the Landlord (the "Representatives") joined the teleconference hearing. The Officer did not have a telephone number to call the Tenant. At 9:09 a.m. the Officer emailed the Tenant advising that the telephone hearing would be commencing immediately. A further copy of the Notice of Hearing and the Application were attached to the email. The Officer was satisfied that the Tenant had been provided with notice of the hearing. At 9:11 a.m. the hearing proceeded in the absence of the Tenant. The hearing concluded at 9:38 a.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

- [8] The Representatives' evidence is summarized as follows.
- [9] The Unit is a single family dwelling that the Landlord purchased on May 24, 2011. Approximately five to ten years ago the Tenant and the Landlord entered into a tenancy agreement for the Unit. Rent in the amount of \$862.00 is due on the twentieth day of the month. A security deposit was not required.
- [10] The Tenant currently has \$5,254.00 in rental arrears dating back to October of 2023. The Landlord had previously made payment arrangements with the Tenant but the Tenant did not comply with the agreed upon payments.

- [11] The Representatives provided evidence regarding problems with the condition of the Unit.

Analysis and Conclusion

- [12] The Landlord's first basis for terminating the tenancy is pursuant to subsection 60(1) of the *Residential Tenancy 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.

- [13] The Representatives' testimony and documentary evidence establishes that substantial rental arrears were outstanding as of March 21, 2024, the date that the Notice was served. 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.
- [14] As the Landlord has established valid grounds to end the tenancy for non-payment of rent, it is unnecessary for the Officer to consider the additional grounds in the Notice.
- [15] The Officer notes that, with regard to the complaint in the particulars of termination regarding the condition of the Unit, the Landlord ought to have also selected one or more of the items [(a) to (m) in the Notice] regarding this complaint.
- [16] 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 May 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 April, 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.