

Introduction

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On April 25, 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 Rental 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 LD24-154.
- [3] Attached to the Application was an *Eviction Notice (Form 4(A))* served by the Landlord to the Tenant on April 2, 2024, effective April 22, 2024 (the “Notice”), for the following reasons:

*You have not paid your rent in the amount of \$585.00; and
You are repeatedly late in paying rent.*

There were no particulars of termination on the Notice.

- [4] On April 25, 2024 the Landlord’s representative (the “Representative”) posted the Application to the front door of the Rental Unit.
- [5] On May 2, 2024 the Rental Office mailed the parties notice of a teleconference hearing (the “Notice of Hearing”), along with a copy of the Application.
- [6] On May 9, 2024 the evidence package (“EP”) was e-mailed to the Representative with the request that the Representative serve the EP to the Tenant. The EP contains 23-pages of documents submitted by the Landlord, along with a copy of the Notice of Hearing and the Application.
- [7] On May 9, 2024 the Rental Office confirmed an e-mail address, which was provided by the Tenant to send the EP for viewing. The Tenant confirmed receipt of the EP by the e-mail address, and confirmed that the Representative had not yet served the hard-copy of the EP. The Rental Office made a hard-copy of the EP available to the Tenant for pick up at the Rental Office.
- [8] On May 14, 2024 at 1:00 p.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Representative called into the hearing at the scheduled time, and the Tenant did not. The Rental Office contacted the Tenant, and the Tenant informed the Rental Office that he did not wish to participate in the hearing. The Tenant did not request an adjournment. The hearing proceeded in the Tenant’s absence.

Issue to be Decided

- i. Does the Tenant have to vacate the Rental Unit pursuant to the Notice?

Summary of the Evidence

- [9] The Rental Unit is an apartment unit situated in a 12-unit apartment building (the “Residential Property”).
- [10] The parties entered into a written, fixed-term tenancy agreement for the period of May 1, 2022 to April 30, 2023. The tenancy continued as a month-to-month agreement. Rent is \$1,185.00 due on the first day of the month. A security deposit of \$1,150.00 was paid in May 2022.
- [11] On April 2, 2024 the Representative served the Notice to the Tenant by posting it to the front door of the Rental Unit.

Landlord's Evidence and Submissions

- [12] The Representative submitted 15-pages of documents into evidence including: a brief written submission, and photographs of receipts for payment of rent throughout the tenancy.
- [13] The Representative stated that the Tenant has been repeatedly late paying the rent. The Representative stated that on April 2, 2024 the Tenant paid \$600.00, and claimed he could not pay the remaining outstanding rental arrears. The Representative stated that on April 2, 2024 she served the Notice to the Tenant for the remaining balance of the rental arrears (\$585.00).
- [14] The Representative stated that the Tenant did not pay the outstanding rental arrears within ten days of being served the Notice. Further, the Tenant did not vacate the Rental Unit by the effective date on the Notice (April 22, 2024).
- [15] The Representative stated that on April 25, 2024 the Tenant paid \$500.00, and on April 26, 2024 the Tenant paid \$85.00. The Representative stated that despite the Tenant paying the outstanding rental arrears for April 2024, she still wanted to pursue ending the tenancy agreement.
- [16] The Representative stated that as of the date of the hearing, the Tenant continues to reside in the Rental Unit. The Representative stated that the Tenant had not paid any rent for May 2024, and is seeking an order for outstanding rent for May 2024.

Tenant's Evidence and Submissions

- [17] The Tenant did not submit any documentary evidence and did not participate at the hearing to provide any oral submissions.

Analysis

- [18] The Application is made in accordance with clause 75 of the Act. The reasons for the termination of the tenancy are pursuant to clauses 60(1) and 61(1)(b) of the Act, which state:
 - 60. Landlord's notice for non-payment of rent**
 - (1) *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.*
 - 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:*
 - (b) *the tenant is repeatedly late in paying rent.*
- [19] The Landlord bears the onus of proving its claim on a balance of probabilities. This means that a decision-maker must be satisfied that there is sufficiently clear, convincing and cogent evidence to support the claim(s).
- [20] The Representative's testimony and documentary evidence establishes that rental arrears were outstanding as of April 2, 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.
- [21] The Officer finds that the Landlord has established valid grounds to end the tenancy for non-payment of rent. Further, the Officer finds that the Landlord has established that the Tenant has been repeatedly late with paying the rent.

- [22] The Officer finds that the Notice is valid and the Application is allowed. The Tenant shall vacate the Rental Unit by the time and date below.

Conclusion

- [23] The Notice is valid and the Application is allowed.
- [24] The Tenant shall vacate the Rental Unit by the time and date below.

IT IS THEREFORE ORDERED THAT

- A. The tenancy between the parties shall terminate effective **5:00 p.m. on May 24, 2024**. The Tenant shall vacate the Rental Unit 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 15th day of May, 2024.

(sgd.) Cody Burke
Cody Burke
Residential Tenancy Officer

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals 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.