

Introduction

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On May 2, 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. The Application also included a claim for rent owing.
- [3] The parties confirmed with the Rental Office that the Tenant paid all of the outstanding rental arrears. This part of the Application is resolved.
- [4] Attached to the Application was an *Eviction Notice (Form 4(A))* served by the Landlord’s representative (the “Representative”) on March 30, 2024, effective April 30, 2024 (the “Notice”), for the following reasons:
1. *You have not paid your rent in the amount of \$260.00;*
 2. *You or someone you have allowed on the property have disturbed, endangered others or put the landlord’s property at significant risk; and*
 3. *You or someone you have allowed on the property has caused damaged to the rental unit.*
- [5] The Particulars of Termination stated:
- “You have allowed someone not on lease to stay there. Also social assistance has stopped payment of rent (on your behalf) to [the Landlord].”*
- [6] On May 2, 2024 the Representative posted the Application to the front door of the Rental Unit.
- [7] On May 14, 2024 the Rental Office mailed the parties notice of a teleconference hearing (the “Notice of Hearing”), along with a copy of the Application. The Representative posted the Notice of Hearing to the Rental Unit’s front door.
- [8] On May 17, 2024 the evidence package (the “EP”) was e-mailed to the parties. The EP contains 30-pages of documents submitted by the parties, along with a copy of the Notice of Hearing and the Application.
- [9] On May 23, 2024 at 1:00 p.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Representative and the Tenant participated.
- [10] On May 24, 2024 the Tenant e-mailed the Rental Office confirmation that the \$1,040.00 in rental arrears were paid. Attached to the e-mail was an e-transfer confirmation. The Representative submitted an e-mail to the Rental Office confirming payment. Both e-mails were included as additional evidence.

Issue to be Decided

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

Summary of the Evidence

- [11] On September 1, 2020 the parties entered into a written, month-to-month tenancy agreement for the Rental Unit. Rent is \$260.00 due on the first day of the month. No security deposit was required.
- [12] On March 30, 2024 the Representative posted the Notice on the Rental Unit’s front door.

Landlord's Evidence and Submissions

- [13] The Representative submitted 14-pages of documents into evidence including: a copy of the Notice, an older eviction notice, a photograph of the documents being posted to the front door of the Rental Unit, a photograph of a pile of clothing and miscellaneous items, a copy of the tenancy agreement, text messages, and an e-mail complaint from another tenant.
- [14] The Representative stated that social assistance stopped paying the Tenant's rent in February 2024. The Representative stated that despite the nonpayment of rent, the more significant issue was the Tenant's partner living in the Rental Unit. The Representative stated that he received complaints from other tenants about noise. The Representative stated that he requested information about the Tenant's partner, but never received it. The Representative stated that the Tenant does not always respond to his text messages.
- [15] The Representative stated that he inspected the Rental Unit three times. The Representative stated that he only witnessed the Tenant's partner there once. The Representative stated that if the Tenant pays the rental arrears he is open to working with the Tenant.
- [16] The Representative e-mailed the Rental Office to confirm payment of the outstanding rental arrears.

Tenant's Evidence and Submissions

- [17] The Tenant submitted 10-pages of documents into evidence including: a photograph of a letter dated April 26, 2024 addressed to the Tenant's partner with a different mailing address, photographs of the Rental Unit, a written submission, and a letter from the Tenant's family member.
- [18] The Tenant stated that she has had financial difficulties since February 2024. The Tenant stated that she has the money and can pay the full amount of the rental arrears. The Tenant stated that she has been struggling with mental health, which caused the lack of communication with the Representative and for the Rental Unit's uncleanliness.
- [19] The Tenant stated that she is no longer with her partner. The Tenant stated that he would stay over from time to time, but that is no longer the case. The Tenant stated that moving forward, her former partner will not be at the Rental Unit. The Tenant stated that she has changed rooms to mitigate the noise, and is taking steps to address her financial and mental health struggles.
- [20] The Tenant submitted an e-transfer confirmation for the outstanding rental arrears.

Analysis

- [21] 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), 61(1)(d) and (f) 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:*
 - (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;*
- (f) *the tenant or a person permitted on the residential property by the tenant has caused unreasonable damage to a rental unit or the residential property.*

- [22] 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 claims.
- [23] The Officer finds that the Tenant has made genuine efforts to remediate the financial and behavioural issues purported by the Landlord. The Tenant paid the full amount of the rental arrears on May 24, 2024. The Tenant stated that she is no longer in a relationship with her partner, and that he will not be returning to the Rental Unit. The Tenant stated that she has taken steps to address her financial woes and mental health, and has even moved into a different room in the Rental Unit to attempt to mitigate any noise.
- [24] The Officer notes that the Representative stated that if the rental arrears were fully paid and that the Tenant's partner was no longer at the Rental Unit, he would be open to allowing the Tenant to stay.
- [25] The Officer finds that the remaining reasons for the eviction do not rise to a level that justify the termination of the tenancy at this time. Therefore, the Notice is invalid and the Application is denied.
- [26] **The Officer advises the Tenant to ensure rent is paid in full on the first day of each month. Failure to pay rent on time or any further complaints may result in the termination of the tenancy.**

Conclusion

- [27] The Notice is invalid and the Application is denied.
- [28] The tenancy agreement shall continue in full force and effect.
- [29] This Order will be served to the parties by e-mail.

IT IS THEREFORE ORDERED THAT

- I. The tenancy agreement shall continue in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 27th 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 **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.