

INTRODUCTION

- [1] On June 3, 2024 the Landlords filed an amended *Landlord Application to Determine Dispute (Form 2(B))* (the "Application") with the Residential Tenancy Office (the "Rental Office") pursuant to the *Residential Tenancy Act* (the "Act"). The Application seeks vacant possession of the Unit and an order for the Sheriff to put the Landlords in possession, which is the subject of this decision.
- [2] The Application also included a claim for rent owing, which is the subject of Order LD24-210.
- [3] Attached to the Application was an *Eviction Notice (Form 4(A))* served on May 8, 2024 by the Landlords to the Tenant, effective May 31, 2024, for non-payment of rent in the amount of \$2,500.00 (the "Notice").
- [4] On June 13, 2024 the Rental Office mailed the parties notice of a teleconference hearing scheduled for 9:00 a.m. on June 27, 2024 (the "Notice of Hearing"), along with a copy of the Application. These documents were also emailed to the Landlords. The Landlords messaged copies of the documents to the Tenant and taped a copy to the Unit's door.
- [5] On June 24, 2024 the Rental Office emailed the Landlords an evidence package (the "Evidence Package"). The Landlords messaged the Tenant a copy of the Evidence Package and taped a copy to the Unit's door.
- [6] At 9:00 a.m. on June 27, 2024 the Residential Tenancy Officer (the "Officer") and the Landlords participated in a teleconference hearing. The Tenant did not join the hearing. The Officer telephoned the Tenant but there was no response. The Officer waited until 9:10 a.m. before proceeding with the hearing in the absence of the Tenant.

ISSUE

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

SUMMARY OF THE EVIDENCE

- [7] The Landlords' evidence is summarized as follows.
- [8] The Unit is a three-bedroom, two-bathroom single family dwelling that the Landlords have owned since January 30, 2023.
- [9] The Landlords and the Tenant entered into a written, fixed term tenancy agreement for the period of January 1, 2024 to January 1, 2025. Rent in the amount of \$2,000.00 is due on the first day of the month and a \$1,000.00 security deposit was paid on January 11, 2024.
- [10] On May 8, 2024 the Landlords served the Notice to the Tenant for rent owing in the amount of \$2,500.00. The Tenant has not paid the rental arrears and also has not paid rent for June of 2024, in the additional amount of \$2,000.00.

ANALYSIS AND CONCLUSION

- [11] At the hearing the Officer amended the Notice pursuant to clause 85(1)(l) of the *Act* to correct a minor typographical error regarding the address of the Unit.

[12] The Landlords' 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.

[13] The evidence establishes that rent of \$2,500.00 was outstanding as of May 8, 2024.

[14] The Tenant did not pay the rental arrears within ten days of being served with the Notice. Therefore, the Notice was not invalidated pursuant to clause 60(4)(a) of the *Act*, which states:

Within 10 days after receiving a notice of termination under this section, the tenant may (a) pay the overdue rent, in which case the notice of termination has no effect;

[15] 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 July 4, 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 27th day of June, 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.