

**INTRODUCTION**

- [1] On June 6, 2024 the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the "Application") with the Residential Tenancy Office (the "Rental Office") disputing an *Eviction Notice* (Form 4(A)) dated and served on May 28, 2024 for effect on June 28, 2024 (the "Notice"). The Officer notes that the correct effective date is June 30, 2024.
- [2] The Notice was served to the Tenant because the employment relationship with the Landlord ended. The particulars of termination state:
- "As you are no longer employed with [Landlord], the said employer, hereby terminates rental agreement."*
- [3] On June 17, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for 11:00 a.m. on June 27, 2024, along with a copy of the Application.
- [4] On June 25, 2024 the Rental Office emailed a 17-page evidence package to the parties.
- [5] On June 27, 2024 a teleconference hearing was held with the parties before the Residential Tenancy Officer (the "Officer") for determination of the Application. The Tenant, the Tenant's witness and a representative of the Landlord (the "Representative") participated in the hearing. At the hearing the parties confirmed receipt of the Evidence Package.

**ISSUE**

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

**SUMMARY OF THE EVIDENCE**

- [6] The Unit is a motel room located in a 22-unit building (the "Building"). The Landlord has three buildings containing 109 units (the "Residential Property").
- [7] The Tenant and the former owner of the Residential Property entered into an oral, month-to-month tenancy agreement that commenced on May 4, 2021. The Landlord purchased the Residential Property on August 15, 2022 and the tenancy continued. Rent in the amount of \$566.50 is due on the first day of the month.
- [8] The parties provided conflicting evidence regarding the payment of a security deposit. The Tenant stated that a \$300.00 security deposit was paid to the former owner. The Representative stated that they were not aware of a security deposit paid by the Tenant.

**Landlord's Evidence and Submissions**

- [9] The Representative's evidence is summarized as follows.
- [10] The Representative is the Landlord's general manager. The Representative lives in a two-bedroom apartment that is owned by the Landlord. There are front desk staff that have lived in the Residential Property.
- [11] The Representative stated that the Tenant ended his employment with the Landlord around April 16 or 17, 2023. The Landlord's written evidence states:

*"With effective 01 April 2023, [Tenant] resigned from the hotel operations and continued staying at the hotel accommodation."*

- [12] Representatives of the Landlord spoke to the Tenant about moving out of the Unit upon the hiring of a new maintenance assistant.
- [13] The Landlord submitted into evidence a document titled "*Employee Information Sheet.*"
- [14] The Landlord has a new maintenance person that needs a place to stay at the Residential Property. The Building is fully occupied and the Landlord seeks to have the new maintenance person move into the Unit.

### Tenant's Evidence and Submissions

- [15] The Tenant's evidence is summarized as follows.
- [16] The Tenant completed work for the former owner of the Residential Property. The Tenant completed house cleaning, painting, grass cutting and general maintenance work. When the Landlord purchased the Residential Property the Tenant continued this work.
- [17] The Tenant stated that he ended his work for the Landlord around April 17, 2023 when the Tenant started working for the City of Summerside. The Tenant has continued to live in the Unit and pay rent to the Landlord.
- [18] There are unoccupied units in the Building.

### ANALYSIS AND CONCLUSION

- [19] The Landlord's basis for terminating the tenancy is pursuant to subsection 66(1) of the *Residential Tenancy Act*, which states:

*A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving a notice of termination of the tenancy where*

- (a) the rental unit was rented or provided to the tenant for the term of the tenant's employment;*  
*(b) the tenant's employment as a caretaker, manager or superintendent is ended;*  
*and*  
*(c) the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.*

- [20] The Landlord must meet all of the requirements in subsection 66(1) to validly terminate the tenancy pursuant to the Notice.
- [21] The Tenant moved into the Unit and the Landlord purchased the Residential Property at a time when the *Rental of Residential Property Act* (the "*RRPA*") was in effect. There was no provision in the *RRPA* similar to clause 66 of the *Act*. Therefore, at that time the rental law would not have directed the parties' minds to the nature of the term of the tenancy agreement.
- [22] The evidence presented does not establish that the Unit was rented or provided to the Tenant for the term of the Tenant's employment. Although the Tenant was originally employed by the former owner of the Unit, it is unclear whether the original oral tenancy agreement was only supposed to last so long as the Tenant continued to be an employee. When the Landlord purchased the Residential Property, the Tenant's tenancy agreement continued on the same terms by operation of law.
- [23] Neither the former owner nor the Landlord entered into a written tenancy agreement with the Tenant clearly setting out the intent of the parties regarding the term. The Employee Information Sheet

provided by the Landlord does not state that the Tenant's occupation of the Unit is limited to his term of employment.

- [24] As the requirement in clause 66(1)(a) has not been established, the Notice is invalid and the Application is allowed. The tenancy agreement will continue in full force and effect and the Tenant can continue to reside in the Unit.
- [25] The Officer notes that the parties testified that the tenancy ended around April 16 or 17, 2023. The Landlord's documentary evidence stated that the Tenant resigned April 1, 2023. The *Act* came into force in between these dates, on April 8, 2023. If the Tenant's employment ended before April 8, 2023 there would be an additional issue regarding whether the Landlord could end the tenancy pursuant to section 66 of the *Act* because the *RRPA* was the applicable rental law on April 1, 2023.
- [26] The Tenant is not a manager or superintendent of the Landlord. The term "caretaker" is not defined in the *Act* or the *Residential Tenancy Regulations*. However, it is unnecessary in this decision for the Officer to determine whether the Tenant is a "caretaker" as the Notice is invalid based on clause 66(1)(a), above.

### IT IS THEREFORE ORDERED THAT

1. The tenancy agreement will continue in full force and effect and the Tenant can continue to reside in the Unit.

**DATED** at Charlottetown, Prince Edward Island, this 8th day of July, 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 **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.