

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On July 3, 2024 the Landlord’s representative (the “Representative”) filed a *Form 2 (B) Landlord Application to Determine Dispute* (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, however, the Representative withdrew this claim.
- [3] On July 2, 2024 the Representative posted the Application to the front door of the Rental Unit.
- [4] The Application was supported by a *Form 4 (A) Eviction Notice* (the “Notice”).
- [5] The Notice dated May 8, 2024 effective May 31, 2024 was served by the Representative to the Tenant on May 8, 2024 by posting the Notice to the front door of the Rental Unit for the following reasons:

You or someone you have allowed on the property have disturbed, endangered others or put the landlord’s property at significant risk; and

You or someone you have allowed on the property have engaged in illegal activity on the property.

There were no particulars of termination.

- [6] On July 9, 2024 the Rental Office emailed the Landlord a notice of a teleconference hearing, along with a copy of the Application. The Rental Office mailed the Tenant a notice of a teleconference hearing, along with a copy of the Application. The Representative posted a copy of the notice of a teleconference hearing, along with a copy of the Application to the front door of the Rental Unit.
- [7] On July 17, 2024 the Rental Office emailed the Landlord the evidence package (the “EP”). The Representative posted the EP on the front door of the Rental Unit, and provided a photograph of service to the Rental Office.
- [8] On July 18, 2024 at 11:00 a.m. a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Representative participated. The Tenant did not call into the teleconference hearing at the scheduled time. The Officer postponed the hearing for ten minutes. The Rental Office did not have any valid contact information on file for the Tenant. The Officer was satisfied that the Tenant was properly served all relevant documents. The hearing proceeded in the absence of the Tenant.

ISSUE

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

SUMMARY OF EVIDENCE

- [9] The Rental Unit is an apartment unit situated in a nine-unit apartment building with one commercial space (the “Residential Property”).
- [10] The Tenant moved into the Rental Unit in June 2023 and is party to a written, fixed-term tenancy agreement. Rent is \$670.00 due on the first day of the month. A \$300.00 security deposit was paid.

LANDLORD'S EVIDENCE AND SUBMISSIONS

- [11] The Landlord submitted 11-pages of documents into evidence including: proof of service, emails and photographs of the Rental Unit's front door.
- [12] The Representative stated that the Tenant's parents paid his outstanding rent on July 17, 2024.
- [13] The Representative stated that the Tenant has permitted unwanted guests into the Rental Unit and the Residential Property. The Representative stated that other tenants in the Residential Property have complained about the Tenant's guests and the foot traffic. The Representative stated that the Tenant or a guest of the Tenant broke the Rental Unit's front door (page 8 of the EP).
- [14] The Representative stated that there are numerous other issues such as smoking, and noise complaints.

ANALYSIS & CONCLUSION

- [15] The Application is made in accordance with clause 75 of the Act. The reasons for the termination of the tenancy are pursuant to clauses 61(1)(d) and (e) of the Act, which state:

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.*
- (e) *the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that*
- (i) *has caused or is likely to cause damage to the landlord's property,*
 - (ii) *has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
 - (iii) *has jeopardized or is likely to jeopardize a lawful right or interest of the landlord or another occupant.*

- [16] 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 and convincing evidence to support the claim(s).
- [17] The evidence establishes that the Tenant or a person permitted on the Residential Property by the Tenant, significantly interfered with or unreasonably disturbed other tenants in the Residential Property, and has put the Landlord's property at significant risk.
- [18] The Officer finds that the Representative provided direct testimony about the complaints he has received from other tenants and that he witnessed the significant damage to the Rental Unit's front door caused by either the Tenant, or a guest of the Tenant. The Officer finds that the Landlord had valid grounds to serve the Notice.

[19] Clause 61(6) of the Act states:

Tenant presumed to accept notice

- (6) *Where a tenant who has received a notice of termination under this section does not make an application to the Director in accordance with subsection (5), the tenant*
- (a) *is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and*
 - (b) *shall vacate the rental unit by that date.*

[20] The Tenant did not file an application with the Rental Office within ten days of receiving the Notice. By operation of law, the Tenant is deemed to have accepted the end of the tenancy, pursuant to the Notice.

[21] Therefore, the Officer finds that the Notice is valid and the Application is allowed. The Tenant and all occupants must vacate the Rental Unit by the timeline below.

IT IS THEREFORE ORDERED THAT

- I. The tenancy between the parties shall terminate effective 5:00 p.m. on July 25, 2024. The Tenant and all occupants must vacate the Rental Unit by this time and date.
- II. 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 18th day of July, 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 (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.