

INTRODUCTION

- [1] On July 31, 2024 the Landlord filed a *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").
- [2] The Application seeks vacant possession of the Unit and an order for the Sheriff to put the Landlord in possession.
- [3] Attached to the Application was an *Eviction Notice (Form 4(A))* served by the Landlord to the Tenant on June 11, 2024, effective July 11, 2024 (the "Notice"). The Officer notes that the effective date was too early. However, the effective date is automatically changed to July 31, 2024 pursuant to section 54 of the *Act*. The Officer also finds that the Notice is amended to add "Charlottetown" to the address of the Unit, pursuant to clause 85(1)(l).
- [4] The Notice was served 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;*
You or someone you have allowed on the property has caused damage to the rental unit;
You have not repaired damage to the rental unit; and
You have failed to comply with a material term of the tenancy agreement despite written warning.
- [5] On August 2, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for 9:00 a.m. on August 13, 2024, along with a copy of the Application.
- [6] On or about August 8, 2024 the parties were provided with an evidence package regarding the Application.
- [7] On August 9, 2024 the Landlord submitted additional evidence and a copy was emailed to the Tenant.
- [8] At 9:00 a.m. on August 13, 2024 a representative of the Landlord (the "Representative"), the Landlord's maintenance manager ("LW1"), and the Tenant participated in a teleconference hearing with the Residential Tenancy Officer (the "Officer").
- [9] During the hearing the Tenant stated that she had not received the additional evidence from the Landlord that was emailed to the Tenant on August 9, 2024. The Rental Office sent the Tenant an additional copy of the Landlord's August 9, 2024 email. The Tenant was provided with an opportunity to review the email and provide comments during the hearing.
- [10] During the hearing an email dated July 11, 2024 sent by the Tenant to the Island Regulatory and Appeals Commission (the "Commission") was added to the evidentiary record. The Landlord was provided with an opportunity to comment on this evidence during the hearing.

ISSUE

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

SUMMARY OF EVIDENCE

- [11] The Unit has two bedrooms and one bathroom and is located in a duplex building that the Landlord has operated for approximately 40 years.

- [12] The Landlord and the Tenant entered a written, month-to-month tenancy agreement for the Unit that commenced on May 1, 2021. A security deposit was not required. Rent in the amount of \$375.00 is due on the first day of the month.

Landlord's Evidence and Submissions

- [13] The Landlord's evidence is summarized as follows.
- [14] On May 16, 2024 the Representative and LW1 inspected the Unit. The smoke detectors in the Unit are wired. However, during the inspection the Representative and LW1 discovered that the smoke detectors had been ripped off the ceilings and were not working. The Tenant did not notify the Landlord of the smoke detector removal. During the inspection the Representative noticed that some of the Unit's windows were smashed out and some windows were nailed down.
- [15] The Representative stated that at the end of the inspection the Tenant was verbally abusive. The Tenant screamed and yelled at the Representative to leave the Unit and never come back. In particular, the Tenant stated the following to the Representative:
- "Get the fuck off my fucking property you fucking bitch."*
- [16] The Representative felt that it was unsafe to be at the Unit.
- [17] LW1 stated that he has attended the Unit on multiple occasions to address maintenance issues and the Tenant has been verbally abusive by cursing and swearing. The Tenant has falsely accused LW1 of being an undercover police officer. LW1 stated that the Landlord's employees and contractors do not want to attend the Unit alone. LW1 and other contractors are nervous and on edge when they attempt to complete repairs at the Unit. LW1 stated that he was present for the inspection on May 16, 2024 and the Representative's account of the Tenant swearing is accurate.
- [18] LW1 stated that he later attended the Unit after the inspection to check the smoke detectors but the Tenant denied access.
- [19] There is extensive garbage in and around the Unit. There is water damage that needs to be fixed.
- [20] There is a constant stream of traffic to the Unit and the Tenant's neighbours live in fear. Police were constantly attending the Unit over the past weekend.
- [21] The Landlord provided other evidence regarding the Tenant's behaviour.

Tenant's Evidence and Submissions

- [22] The Tenant's evidence is summarized as follows.
- [23] The Tenant is unhappy with the amount of notices she has received for the Landlord to access the Unit. The Tenant stated that she told the Representative to leave the Unit because she was laughing at the Tenant and calling her a drug dealer. The Tenant stated that the Representative does not need to attend the Unit again because she has a maintenance manager.
- [24] The Tenant took down the smoke detector in the kitchen because it kept going off. The Tenant was not exactly sure how the smoke detector worked. The Tenant stated she did not know the smoke detector in the downstairs portion of the Unit was not connected. After the May 16, 2024 inspection, the Landlord did not provide 24 hours written notice before coming to the Unit to check the smoke detectors again.

- [25] The Tenant reported to the Landlord in 2022 that a window was broken. The Tenant's door was kicked in when she was not home. The Tenant has nails in the windows because the Unit's door was kicked in. The Tenant provided other evidence regarding complaints about the condition of the Unit.
- [26] The Tenant stated that, although the Landlord's documentary evidence contains allegations against the Tenant, the police have never come to her door.
- [27] The Landlord's video shows a property across the street at the park, not the Tenant's unit.
- [28] On July 11, 2024 the Tenant emailed the Commission a Notice of Appeal document to contest the Notice.

ANALYSIS

- [29] One of the reasons that the Landlord seeks to end the tenancy is pursuant to clause 61(1)(d), which states:

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.*

- [30] The Representative and LW1 provided their direct, corroborating evidence regarding verbal abuse by the Tenant, particularly on May 16, 2024. During the hearing the Tenant attempted to justify her behaviour but the Tenant did not dispute the Landlord's evidence of what she had stated. The Officer accepts the Representative and LW1's evidence of what was stated by the Tenant. The Officer accepts LW1's evidence that there were also other occasions where the Tenant was verbally abusive to LW1.
- [31] The Tenant's comments were derisive and unacceptable. After these aversive experiences it is reasonable for the Landlord to be highly concerned for any employee or contractor attending the Unit.
- [32] The Officer finds that a breach of clause 61(1)(d)(i) has been established because the Tenant has unreasonably disturbed employees of the Landlord.
- [33] The evidence presented also establishes that the Tenant interfered with the fire detection equipment at the Unit. The evidence of the parties also establishes that the Tenant has nailed down windows in the Unit, which presents additional fire hazards. For these reasons, the Officer finds that the Tenant has additionally breached clauses 61(1)(d)(ii) and (iii).
- [34] As the Landlord has established valid bases for ending the tenancy pursuant to clause 61(1)(d), it is unnecessary in this decision for the Officer to consider the other behaviour alleged by the Landlord.
- [35] The Officer notes that the best practice is to have witnesses participate in the Rental Office teleconference hearing, as was arranged by the Landlord regarding the Representative and LW1.

[36] On July 11, 2024 the Tenant emailed the Commission a Notice of Appeal. In order to dispute the Notice, the Tenant should have filed a *Form 2 (A) Tenant Application to Determine Dispute* with the Rental Office within ten days of being served with the Notice (by June 21, 2024).

CONCLUSION

[37] The Notice is valid and the Application is allowed.

[38] 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 August 21, 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 14th day of August, 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.