

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On August 14, 2024, the Landlord filed an amended *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 of the unit.
- [3] The Application also included a claim for rent owing, which is the subject of Order LD24-299.
- [4] The Application was supported by a *Form 4 (A) Eviction Notice* (the “Notice”). The Notice was dated June 24, 2024, effective July 24, 2024, and was served by the Landlord to the Tenants on June 24, 2024, by email for the following reasons:

*You have not paid your rent in the amount of \$2850; and
You are repeatedly late in paying rent.*

- [5] On August 21, 2024, a notice of teleconference hearing was mailed and emailed to the parties. The hearing notice was emailed to each Tenant’s separate email addresses.
- [6] On August 28, 2024, an evidence package was emailed to the parties. The evidence package was emailed to each Tenant’s separate email addresses. No evidence was submitted by the Tenants.
- [7] On September 10, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). A Landlord representative (the “Representative”) called into the hearing but the Tenants did not call in. As the Rental Office did not have phone numbers for the Tenants, the Officer was unable to call the Tenants. The Officer waited ten minutes and the hearing proceeded in the absence of the Tenants.
- [8] The Officer is satisfied that the Tenants were properly served all documents by email. The Landlord submitted into evidence recent correspondence between the Landlord and each Tenant using the email addresses provided to the Rental Office by the Landlord.

ISSUE

- i. Must the Tenants and all occupants vacate the Rental Unit pursuant to the Notice?

SUMMARY OF THE EVIDENCE

- [9] On October 1, 2023, the parties entered into a written fixed-term tenancy agreement for the period of October 1, 2023, to September 30, 2024. Rent is \$2,850.00 due on the first day of the month and a security deposit of \$2,850.00 was paid.

LANDLORD’S EVIDENCE AND SUBMISSIONS

The Representative’s evidence is summarized as follows.

- [10] The Tenants have not paid rent since May 2024. When the rent for June was not paid, the Landlord served the Notice to the Tenants. The Tenants owe rent for June, July, and August 2024, totaling \$8,550.00. The Landlord is not seeking any rent owing for September 2024.
- [11] After the Notice was served, one of the Tenants notified the Representative that he had moved out of the Rental Unit a few months ago. The Representative stated that there was no amendment to the tenancy agreement so both Tenants are still liable for the rent. A copy of the Tenants’ rental ledger was submitted into evidence.

ANALYSIS & CONCLUSION

[12] The reasons for the termination of the tenancy are pursuant to the following sections of the Act:

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.*

Tenant may dispute notice or pay unpaid rent

(4) *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;*
or
- (b) *dispute the notice of termination by making an application to the Director under section 75.*

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:*

- (b) *the tenant is repeatedly late in paying rent;*

Tenant may dispute notice or pay unpaid rent

(4) *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;*
or
- (b) *dispute the notice of termination by making an application to the Director under section 75.*

[13] The evidence establishes that at the time the Notice was served the Tenants owed \$2,850.00 for rent for June 2024. The Officer finds the Tenants did not pay the outstanding rental arrears within ten days of being served the Notice and there is no evidence that the Tenants had filed an application to dispute the Notice within ten days. Therefore, the Notice was not invalidated pursuant to clause 60.(4) of the Act.

[14] The Officer finds that the Landlord has not established that the Tenants have been "repeatedly late" in paying rent, as the rent had not been paid at all for June, July, or August 2024.

[15] The Officer finds that the Notice is valid and the Application is allowed.

[16] The Tenants and all occupants must vacate the Rental Unit by the timeline below.

[17] In Order LD24-299, the Officer found that the Tenants must pay the Landlord the outstanding rent in the amount of \$8,550.00.

IT IS THEREFORE ORDERED THAT

- I. The tenancy agreement between the parties shall terminate effective 5:00 p.m. on September 20, 2024. The Tenants 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 13th day of September, 2024.

(sgd.) Mitchell King

Mitchell King
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 **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.