

INTRODUCTION

[1] On August 28, 2024 the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office") seeking earlier termination of the tenancy agreement. The Landlord taped the Application to the Unit's door. The particulars of the Application state:

- 1. Constant/numerous noise complaints.*
- 2. Constant/numerous police visits.*
- 3. Numerous animal welfare visits.*
- 4. Apartment is destroyed and uninhabitable."*

[2] On September 9, 2024 the Rental Office mailed the parties notice of a teleconference hearing (the "Notice of Hearing") scheduled for 11:00 a.m. on September 17, 2024, along with a copy of the Application. The Rental Office emailed the Landlord a copy of the Notice of Hearing and the Landlord taped a copy of this document to the Unit's door.

[3] On September 13, 2024 the Rental Office emailed the Landlord the evidence package (the "Evidence Package"). The Landlord taped a copy of the Evidence Package to the Unit's door.

[4] On September 17, 2024 at 11:00 a.m. the Landlord joined the teleconference hearing with the Residential Tenancy Officer (the "Officer"). The Officer telephoned the Tenant's telephone numbers but was unable to directly reach the Tenant. A person answered one of the Officer's telephone calls and stated that the Tenant did intend to participate in the hearing. The hearing with the Tenant was adjourned to 1:00 p.m.

[5] On September 17, 2024 at 1:00 p.m. the Landlord and the Tenant participated in a teleconference hearing with the Officer.

ISSUE

Should the tenancy agreement be terminated early?

PRELIMINARY MATTER

[6] At the hearing the Tenant confirmed receipt of the Application, the Notice of Hearing and the Evidence Package paperwork. The Tenant stated that she did not receive the video submitted by the Landlord.

[7] The Landlord stated that he was unable to provide the Tenant with the video before the hearing. The Landlord stated that the video he submitted is unnecessary because the contents are shown in the Landlord's photographs. The Landlord withdrew the video from being part of the evidence.

SUMMARY OF EVIDENCE

[8] The Unit is located in a triplex building (the "Residential Property") that the Landlord has operated for over 15 years.

[9] Several years ago the Landlord and the Tenant entered into a month-to-month tenancy agreement. Rent in the amount of \$690.00 is due on the first day of the month. A security deposit was not required.

Landlord's Evidence and Submissions

[10] The Landlord's evidence is summarized as follows.

- [11] The Landlord submitted into evidence a letter from the municipal police (the "Police") dated September 11, 2024 (the "Police Letter") which states that there have been 103 Police visits to the Residential Property in 2024. The Police Letter provides a brief description of 37 occurrences since June 1, 2024, with three of the occurrences specifically related to the Unit.
- [12] The Landlord stated that the Tenant has been denying the Landlord access to the Unit. The Landlord stated that repairs to the Residential Property have been more complicated because the Tenant has refused access to the Unit and the Landlord had the repairs completed through accessing another unit.
- [13] On August 17, 2024 there was an incident in the Residential Property involving the discharge of a firearm. On August 19, 2024 the Landlord was contacted by the Police to attend and secure the Residential Property and install new locks. The Landlord attended that Residential Property and was advised by the Police that he could take photographs of the Unit. The Landlord stated that he was told by the Police to be careful in the Unit because a large number of needles were present. Due to the Police warning regarding needles, the Landlord believed that the Police had accessed the Unit to search for drugs. The Landlord submitted into evidence 16 photographs taken by the Landlord showing the condition of the Unit as of August 19, 2024.
- [14] The Landlord stated that the Unit has an extreme smell of dog feces. The cupboards, doors and other parts of the Unit have been damage during the tenancy. There is such a large amount of personal property in the Unit that it is difficult to walk around inside.
- [15] The Landlord stated that the he has the September 2024 rent cheque for the Unit but he decided not to cash it due to this dispute.

Tenant's Evidence and Submissions

- [16] The Tenant's evidence is summarized as follows.
- [17] The Tenant stated that she was set up by another person to have her two cats and dog taken away. A person broke into her Unit and threw fentanyl and other drugs around to make it look like the Tenant was a really bad pet owner. The Humane Society later came to the Unit and took away the Tenant's pets.
- [18] Around August 17, 2024 the Tenant's neighbour's son shot a gun two or three times down the stairs at the Tenant's cousin. Later, the Tenant was driving in a cab to the pharmacy and was pulled over by the Police and arrested. An allegation had been made against the Tenant that she had a gun in the Unit. The Tenant denied having any guns at the Residential Property. The Tenant blames her neighbour and the neighbour's guests for the problems at the Residential Property.
- [19] There was a four or five-day period where the Tenant was unable to live in the Unit. The Tenant stated that she was going to submit her own photographs but then she saw the Landlord's photographs and decided it was not necessary for her to submit photographs. Most of the property shown in the photographs belongs to the Tenant and some of the property belongs to other persons. The Tenant does not believe that the Landlord takes good care of his rental properties.

ANALYSIS

- [20] The Landlord seeks earlier termination of the tenancy agreement pursuant to subsections 61(7), (8) and (9) of the *Residential Tenancy Act*, which state:

(7) Despite subsection (3), a landlord who wishes to give notice of termination under subsection (1) may make an application to the Director to request an order
(a) ending a tenancy on a date that is earlier than the tenancy would end if the notice of termination were given under subsection (1); and

(b) granting the landlord an order of possession in respect of the rental unit.

(8) The Director shall grant an application under subsection (7) only if the Director is satisfied that

- (a) 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,*
 - (iii) put the landlord's property at significant risk,*
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,*
 - (B) 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*
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord,**
 - (v) caused unreasonable damage to the residential property, or*
 - (vi) frustrated the tenancy agreement; and**
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice of termination under subsection (1) to take effect.*

(9) Where the Director makes an order under subsection (7), it is unnecessary for the landlord to give the tenant a notice of termination.

- [21] The Officer has reviewed the evidence of the parties and is satisfied that termination of the tenancy agreement is appropriate. In this case the photographs submitted into evidence were taken in the unique circumstances of the Police and the Landlord resolving an emergency situation at the Residential Property. The evidence presented establishes that the volume of belongings that were stored in the Unit put the Landlord's property at significant risk. The evidence also establishes that unreasonable damage has occurred to the Unit.
- [22] In the specific circumstance of this case, the Officer is not satisfied that it would be unreasonable or unfair to wait for the date that a notice of termination would have taken effect. Had the Landlord served a notice of termination on August 28, 2024, the date the Application was filed, then the earliest effective termination date would have been September 30, 2024.
- [23] In this case the earliest effective date that this decision could be enforced would be September 26, 2024. The Officer is not satisfied on the evidence presented that it would be unreasonable or unfair for the tenancy to end on September 30, 2024, four days later, instead of September 26, 2024.

CONCLUSION

- [24] The Application is allowed in part.
- [25] The tenancy agreement between the parties is terminated effective 5:00 p.m. on September 30, 2024 instead of an earlier date. The Tenant and all occupants must vacate the Unit by this time and date.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties shall terminate effective **5:00 p.m. on September 30, 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 18th day of September, 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.