

**INTRODUCTION**

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On August 21, 2024, the Subtenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the “Subtenant Application”) with the Residential Tenancy Office (the “Rental Office”). The Application was filed to dispute an *Eviction Notice* (Form 4(B)) dated August 2, 2024, effective October 2, 2024, (the “Subtenant Notice”). The Subtenant Notice was served to the Subtenant by the Tenant for the following reason:

*A buyer wants possession of the rental unit for buyer.*

- [3] On August 29, 2024, the Tenant filed a *Tenant Application to Determine Dispute* (Form 2(A)) (the “Application”) with the Rental Office. The Application was filed to dispute an *Eviction Notice* (Form 4(B)) dated August 2, 2024, effective October 2, 2024, (the “Notice”). The Notice was served to the Tenant by the Landlord for the following reason:

*A buyer wants possession of the rental unit for buyer.*

- [4] On August 29, 2024, the Tenant served the Application to the Landlord by email.
- [5] On September 5, 2024, a notice of teleconference hearing was emailed and mailed to the parties.
- [6] On September 13, 2024, an evidence package was emailed to the parties.
- [7] On September 19, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). A Tenant representative (the “Tenant Representative”), the Subtenant, and a Landlord representative (the “Landlord Representative”) participated in the hearing.

**ISSUE**

- i. Must the Tenant and all occupants vacate the Rental Unit due to the Notice?

**SUMMARY OF THE EVIDENCE**

- [8] In April of 2017, the Tenant and a previous landlord entered into a written month-to-month tenancy agreement for the Rental Unit. The Landlord purchased the Rental Unit in 2021 and the tenancy agreement continued. The Rental Unit consists of one half of a duplex (the “Duplex”). Rent is \$1,064.00 due on the 1st day of the month. A security deposit was not required. The Tenant sublets the Rental Unit to the Subtenant.

**PRELIMINARY MATTERS**

- [9] The Notice was served to the Tenant by the Landlord and the Tenant filed the Application to dispute the Notice on behalf of the Subtenant. The filing of the Subtenant Application was unnecessary in this case, as the Subtenant’s tenancy is dependent on the tenancy of the Tenant. The Officer will therefore make a determination on the Application and the Subtenant Application is dismissed.

## LANDLORD'S EVIDENCE AND SUBMISSIONS

### The Landlord Representative's evidence is summarized as follows.

- [10] The Landlord has sold the Rental Unit and the new owner is planning on taking possession of the Rental Unit on October 1, 2024. The Landlord emailed the Notice and an affidavit to the Tenant on August 2, 2024. The Landlord offered to allow the Tenant to retain possession of the Rental Unit until October 31, 2024. On August 13, 2024, the Tenant sent a letter to the Landlord stating that the Tenant would only be paying rent until September 2024 and the Tenant would be terminating the tenancy agreement effective "October 1, 2024."
- [11] After the Landlord had received the letter from the Tenant, the Landlord finalized their agreement with the new owner on August 18, 2024. As the Tenant stated they would be vacating by October 1, 2024, the new owner provided notice to their landlord and the new owner is planning on moving into the Rental Unit on October 1, 2024. The Landlord and the new owner are unable to extend the tenancy agreement beyond September 30, 2024.
- [12] A copy of the Tenant's termination letter and messages between the parties were submitted into evidence.

## TENANT'S EVIDENCE AND SUBMISSIONS

### The Tenant Representative's evidence is summarized as follows.

- [13] The Tenant is seeking more time to vacate the Rental Unit on behalf of the Subtenant. Whenever the Tenant receives notification that a Rental Unit had been sold for a purchaser's own use, it is standard practice to send a letter to the Landlord to terminate the tenancy agreement before the new owner takes possession.
- [14] The Representative was away from work when the Notice had been served and she was not aware the Tenant sent a termination letter until later in August 2024. The Representative acknowledged that there was a miscommunication between employees and the termination letter should not have been sent to the Landlord at that time.

## POST HEARING EVIDENCE AND SUBMISSIONS

- [15] After the hearing the Tenant sent the Rental Office a copy of the purchaser's affidavit, the tenancy agreement the Tenant had with the previous landlord, and the tenancy agreement between the Tenant and Subtenant. A copy of this evidence was provided to the Landlord. No further submissions were received.

## ANALYSIS

### Issue i. Must the Tenant and all occupants vacate the Rental Unit due to the Notice?

- [16] The relevant law is as follows:

#### ***63. Landlord's notice when purchaser personally requires unit***

*(1) A landlord of a residential property that contains fewer than three rental units who has entered into an agreement of purchase and sale of the residential property may, on behalf of the purchaser, give the tenant of a rental unit in the residential property a notice of termination if the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation by*

*(a) the purchaser.*

**Affidavit required**

(3) A notice of termination under subsection (1) or (2) is valid only if the tenant has been provided with a sworn affidavit certifying that the purchaser in good faith requires possession of the rental unit for a purpose set out in subsection (1) or (2).

**69. Tenant may end tenancy early following notice**

(1) Where a landlord gives a tenant a notice of termination of a tenancy under section 62, 63, 64, 66 or 67, the tenant may end the tenancy early by

(a) giving the landlord at least 10 days' written notice of termination on a date that is earlier than the effective date of the landlord's notice; and

(b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

[17] The Officer finds that the Landlord has established a valid basis to terminate the tenancy agreement due to a purchaser's personal occupation of the Rental Unit. The Officer also finds that the purchaser has provided a signed affidavit indicating that they intend to reside in the Rental Unit, as required pursuant to the Act.

[18] The Officer notes that the Landlord should have stated October 31, 2024, as the Tenant's effective vacate date on the Notice, pursuant to sub-subsection 63.(4)(a) of the Act, which states:

**Period of notice**

(4) The date for termination specified in a notice of termination given under subsection (1) or (2) shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term, and

(a) for the purposes of clauses(1)(a) and (2)(a), shall be at least two months after the notice is given.

[19] The evidence also establishes that the Landlord had offered to let the Tenant remain in the Rental Unit until October 31, 2024. However, the Tenant sent a letter to the Landlord on August 13, 2024, stating that the Tenant would be terminating the tenancy agreement between the parties effective "October 1, 2024."

[20] Based on the testimony of the parties at the hearing, although the Tenant stated October 1, 2024, as the termination date in their letter, the intent of the Tenant was to indicate that the final day of the tenancy to be September 30, 2024.

[21] Pursuant to clause 69.(1), the Officer finds that the Tenant has provided at least 10 days' written notice to terminate the tenancy, and the tenancy will end effective September 30, 2024.

[22] In addition to the foregoing, the Officer wishes to highlight that at the time of termination, the Tenant may also be entitled to compensation payable by the Landlord, pursuant to section 72 of the Act, which states:

**72. Compensation for Personal Use**

A landlord shall compensate a tenant who receives a notice of termination of a tenancy under section 62 or 63 in an amount equal to one month's rent plus reasonable moving expenses in accordance with the regulations or offer the tenant another rental unit acceptable to the tenant.

**CONCLUSION**

- [23] The Notice is valid and the Application is denied.
- [24] The Subtenant Application is dismissed.
- [25] The tenancy agreement between the parties shall terminate effective 5:00 p.m. on September 30, 2024, and the Tenant and all occupants shall vacate the Rental Unit by this time and date.

**IT IS THEREFORE ORDERED THAT**

- I. The tenancy agreement between the parties shall terminate effective 5:00 p.m. on September 30, 2024, and the Tenant and all occupants shall 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 23rd day of September, 2024.

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(sgd.) Mitchell King  
Mitchell King  
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.