

INTRODUCTION

- [1] The Landlord wants to terminate the tenancy agreement for cause under clauses 61(1)(d) and (f) of the *Residential Tenancy Act* (the "Act").
- [2] The Tenant disputes the Landlord's reasons for ending the tenancy agreement.

DISPOSITION

- [3] I find that the Landlord has not established that there are valid reasons for terminating the tenancy agreement. Therefore, the tenancy agreement shall continue in full force and effect.

BACKGROUND

- [4] The Unit is an apartment situated in a 7-unit apartment building (the "Residential Property").
- [5] On June 1, 2023 the Tenant and the Landlord entered into a written, fixed-term tenancy agreement for possession of the Unit. Upon expiry of the fixed-term the tenancy agreement converted to a month-to-month agreement. Rent is \$669.50 due on the first day of the month. A \$650.00 security deposit was paid at the beginning of the tenancy.
- [6] On August 16, 2024 the Representative posted the Notice to the front door of the Unit and the Residential Property's front door.
- [7] On August 21, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Tenant emailed the Landlord's property manager (the "Representative") the Application.
- [8] The Application was accompanied by a *Form 4 (A) Eviction Notice* (the "Notice") dated August 16, 2024, and effective September 15, 2024. This effective date is too early and it is automatically corrected to September 30, 2024 by section 54 of the Act.
- [9] The Notice seeks termination of the tenancy agreement for the following reasons:
1. *You or someone you have allowed on the property have disturbed, endangered others or put the landlord's property at significant risk; and*
 2. *You or someone you have allowed on the property has caused damage to the rental unit.*
- Particulars of termination:*
- "Guest of [Tenant] started fire, not reported to property manager."*
- [10] On September 11, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing, along with a copy of the Application.
- [11] The evidentiary record includes nine pages of documents submitted by the Tenant, and fourteen pages of documents submitted by the Representative.
- [12] On September 24, 2024 a teleconference hearing was held. The Representative and the Tenant participated in the hearing. Both parties confirmed they received and reviewed the documentary evidence listed above.

ISSUE

- [13] The question I must consider on the Application is whether the Landlord has a valid reason to terminate the tenancy agreement pursuant to clauses 61(1)(d) and (f) of the Act.

ANALYSIS

- [14] The Landlord alleges that the Tenant and/or the Tenant's guest disturbed and endangered others, has put the Residential Property at serious risk, and has caused damage to the Residential Property.
- [15] The Landlord has the burden of proving its claims by the civil standard of proof, which is on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear and convincing evidence to support the alleged claims.
- [16] The Representative essentially argued that the Tenant permitted an unhoused person to rest on the Unit's deck. On or around August 14, 2024 this unhoused person allegedly caused a fire at the Residential Property due to cooking drugs. The Tenant did not report the fire to the Representative.
- [17] The Representative has received complaints from other tenants about noise, garbage and foot-traffic around the Residential Property, caused by the Tenant. The Representative did not give the Tenant any written or oral warnings about these complaints. The Notice acted as the first and only warning for the Tenant.
- [18] The siding of the Residential Property was allegedly damaged by the fire. The photographs submitted into evidence were taken by a neighbouring tenant, showing two unknown persons carrying a generator into the Unit. The Representative stated this was suspicious behaviour.
- [19] The Tenant disputed the reasons on the Notice, and essentially argued that she did not allow the unhoused person to rest on the Unit's deck. The Tenant knows this unhoused person, but the unhoused person knows many people in the Residential Property and will visit these other tenants. The Tenant stated that she did report the fire. The Tenant was asleep when the fire started and she called emergency services when she woke up.
- [20] The Tenant stated that she did not receive any complaints or warnings from the Representative about noise or garbage. There is a lot of unhoused people in the area which means there is a lot of foot traffic in the area. The Tenant denied having any involvement.
- [21] The generator belongs to the Tenant's son and it was only being stored at the Unit for a brief period. The generator has been removed from the Unit.
- [22] I have reviewed the evidence of the parties. The Tenant presented direct evidence which was capable of being questioned and tested at the hearing. The Representative, on the other hand, did not directly witness the alleged behaviour. The Representative provided only hearsay evidence, unsworn statements and none of the authors of the statements participated in the hearing.
- [23] Further, I find that the Landlord's photographs submitted into evidence do not establish the Landlord's alleged reasons for seeking termination of the tenancy agreement.
- [24] Therefore, I find that the Application's request to invalidate the Notice is allowed. The tenancy agreement shall continue in full force and effect.

IT IS THEREFORE ORDERED THAT

- I. The Notice is invalid. The tenancy agreement shall continue in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 26th day of September, 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 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.