

**INTRODUCTION**

- [1] The Landlord requests an Order requiring the Tenant vacate the Unit because the Tenant has not paid rent.

**DISPOSITION**

- [2] I find that the evidence supports the Landlord's request. For the reasons set out below, the Tenant must vacate the Unit.

**BACKGROUND**

- [3] The Unit is an apartment situated in a 3-unit building (the "Residential Property").
- [4] On April 1, 2024 the parties entered into a written, fixed-term tenancy agreement for the Unit. Rent is \$1,200.00 due on the first day of the month. A \$1,000.00 security deposit was paid at the beginning of the tenancy.
- [5] On August 22, 2024 the Landlord posted a *Form 4 (A) Eviction Notice* (the "Notice") to the door of the Unit dated August 22, 2024 and effective on September 11, 2024. The Landlord seeks to terminate the tenancy agreement for the following reason:

*You have not paid your rent in the amount of \$600.*

*Particulars of termination:*

*"August rent \$1200 paid \$600 balance due - \$600."*

- [6] On September 13, 2024 the Landlord filed a *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 Unit and an order for the Sheriff to put the Landlord in possession, which is the subject of this decision. The Application also included a claim for rent owing, which is the subject of Order LD24-324. The Landlord posted the Application to the front door of the Unit.
- [7] On September 19, 2024 the Rental Office emailed the parties notice of a teleconference hearing, along with a copy of the Application.
- [8] The evidentiary record includes three pages of documents submitted by the Landlord.
- [9] On September 26, 2024 a teleconference hearing was held. The Landlord, a representative for the Landlord and the Tenant participated in the hearing.

**ISSUE**

- [10] Must the Tenant vacate the Unit?

**ANALYSIS**

- [11] The Landlord has the burden of proving his claim 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 claim.
- [12] The Landlord essentially argued that on August 2, 2024 the Tenant had paid only half the rent (\$600.00) that was due on August 1, 2024. On August 22, 2024 the Notice was served to the Tenant for not paying the remaining balance of \$600.00. The Landlord stated that the Tenant also did not pay September 2024 rent (\$1,200.00).

[13] The Tenant stated that because of health issues and financial difficulties she has fallen behind on the rent. The Tenant has been staying with a friend and is attempting to find transportation to move her personal belongings from the Unit.

[14] The Tenant does not dispute the Landlord's evidence.

[15] I conclude that the Tenant did not pay the outstanding rent for August 2024 (\$600.00) within ten days of being served the Notice. Therefore, the Notice was not invalidated pursuant to clause 60(4)(a) of the *Residential Tenancy Act* (the "Act"), which states:

***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.*

[16] The Tenant remained in arrears since the Notice was given, and the Tenant now owes arrears for September 2024. The Tenant did not file an application with the Rental Office to dispute the Notice. I find that by operation of law, the Tenant is also deemed to have accepted the end of the tenancy pursuant clause 60(5) of the Act, which states:

***Tenant presumed to accept notice***

- (5) *Where a tenant who has received a notice of termination under this section does not pay the rent or make an application to the Director in accordance with subsection (4), the tenant*
- (a) *is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and*
  - (b) *shall vacate the rental unit by that date.*

[17] Therefore, I find that the Notice is valid and the Application is allowed. The Tenant and all occupants must vacate the Unit by the timeline below.

**IT IS THEREFORE ORDERED THAT**

1. The tenancy agreement is terminated pursuant to the Notice. The Tenant and all occupants must vacate the Unit by 5:00 p.m. on Friday, October 4, 2024.
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 27th day of September, 2024.

(sgd.) Cody Burke

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Cody Burke  
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.