

**INTRODUCTION**

- [1] The Landlord wants to terminate the tenancy agreement for cause under clauses 60(6), 61(1)(d) and (g) of the *Residential Tenancy Act* (or the “Act”).
- [2] The Tenant disputes the Landlord’s reasons for ending the tenancy agreement.

**DISPOSITION**

- [3] I find that the Landlord has established a valid reason for terminating the tenancy agreement.

**BACKGROUND**

- [4] The Unit is an apartment situated in a six-unit building (the “Residential Property”).
- [5] In March of 2022 the parties entered into a written, month-to-month tenancy agreement. On March 9, 2022 the Tenant paid a \$1,000.00 security deposit. On February 9, 2024 the parties signed a *Form 1 – Standard Form of Rental Agreement*, fixed-term agreement for the period of February 9, 2024 to June 30, 2024. Rent is \$1,025.00 due on the first day of the month. The tenancy agreement does not include electricity as a service.
- [6] On June 20, 2024 the Landlord’s representative filed a *Form 2 (B) Landlord Application to Determine Dispute* (the “Landlord’s Application”) with the Residential Tenancy Office (the “Rental Office”). The Landlord’s Application sought a monetary order for unpaid electricity and repairs. The Landlord’s Application is the subject of Order LD24-338. The Landlord’s representative emailed the Landlord’s Application to the Tenant.
- [7] On July 30, 2024 the Landlord’s representative emailed a *Form 4 (A) Eviction Notice* (the “Notice”) dated July 30, 2024, and effective August 25, 2024 to the Tenant. The Notice was an older version of the Notice, which does not have a particulars of termination section. The Notice was also not signed by the Landlord’s representative.
- [8] The Notice seeks termination of the tenancy agreement for the following reasons:
1. *You have not paid your rent in the amount of \$1,070.39;*
  2. *You or someone you have allowed on the property have disturbed or endangered others;*  
*and*
  3. *You have not repaired damage to the rental unit.*
- [9] On August 8, 2024 the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the “Tenant’s Application”) with the Rental Office to dispute the Notice. The Tenant emailed the Tenant’s Application to the Landlord’s representative.
- [10] The Tenant’s Application also included a request for repairs to the Unit, which is the subject of Order LD24-338. The Landlord’s Application and the Tenant’s Application are collectively referred to as “the Applications”.
- [11] On September 4, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 3, 2024, along with a copy of the Applications.
- [12] On September 25, 2024 the Rental Office emailed the parties an evidence package.
- [13] On October 3, 2024 the Tenant, a witness for the Tenant, two representatives of the Landlord, and two witnesses for the Landlord participated in the hearing. The parties confirmed they received, and reviewed the evidence package. The Landlord’s representative submitted additional documentary evidence.

**ISSUE**

- A. Must the Tenant vacate the Unit?

**ANALYSIS****The Eviction Notice Form**

- [14] I find that there are two issues with the Notice.
- [15] First, the Notice is an older version, which does not have a particulars of termination section. Second, the Notice was not signed by the Landlord's representative pursuant to section 53 of the Act.
- [16] I note that the Tenant did not argue that the Notice be invalidated due to these two defects.
- [17] In this case, I find that the two defects are not fatal to the validity of the Notice.
- [18] The evidence establishes that when the Landlord's representative served the Notice to the Tenant, the Tenant knew that he had not paid the Unit's electricity bills. The Tenant stated that he was not responsible for paying the unpaid electricity bills because of the poor condition of the Unit.
- [19] I am satisfied that the Tenant understood what the non-payment of \$1,070.39 represented on the Notice, despite the Notice not having a particulars of termination.
- [20] Further, the Tenant filed the Tenant's Application with the Rental Office to dispute the Notice, submitted documentary evidence, and provided testimony at the hearing.
- [21] Based on these reasons, I find that the Notice is not invalidated due to the two defects, and amend the Notice pursuant to clause 85(1)(l) of the Act.

**The Reasons for Termination**

- [22] The Landlord's bases for terminating the tenancy are pursuant to clauses 60(6), 61(1)(d) and (g) of the Act, which state:
- (6) *A landlord may treat unpaid utility charges as unpaid rent and may give a notice of termination under this section where*
- (a) *a tenancy agreement requires the tenant to pay utility charges to the landlord; and*  
(b) *the utility charges are unpaid more than one month after the tenant is given a written demand for payment of them.*
- (1) *A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:*
- (d) *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, or*  
(iii) *put the landlord's property at significant risk;*
- (g) *the tenant does not repair damage to the rental unit or residential property, as required under section 28(4), within a reasonable time;*

- [23] The Landlord's representative stated that the electricity is the responsibility of the Tenant. However, the Tenant was arrested, and the Tenant's roommate left the Unit. As the Unit was unoccupied the Landlord's representative put the electricity account in the Landlord's name.
- [24] The Tenant was released from custody and returned to the Unit. However, due to an oversight, the Landlord continued to pay the electricity for the Unit from September 8, 2023 to April 4, 2024. The Landlord's representative stated that the Tenant was asked to compensate the Landlord for this period that the Landlord paid for the Tenant's electricity.
- [25] The Landlord's representative stated that on June 20, 2024 the Tenant was emailed the Landlord's Application, which sought payment for the unpaid electricity. On July 30, 2024 the Notice was served to the Tenant.
- [26] The Tenant did not dispute that electricity was his responsibility. The Tenant stated that he was in custody for twenty days, and was released on September 6, 2023. The Tenant stated that he did not owe the Landlord money for electricity because of the poor condition of the Unit.
- [27] The Tenant's witness stated that the electricity was in the Tenant's roommate's name. The Tenant would pay the roommate his share of the electricity. However, after the Tenant's arrest, and the Tenant's roommate left the Unit, the Tenant was unaware that the Landlord changed the electricity into its name.
- [28] Subsection 60(6) of the Act allows a landlord to treat unpaid utility charges as unpaid rent for the purposes of terminating a tenancy as long as the Landlord meets two requirements.
- [29] The evidence establishes that electricity was not an included service in the tenancy agreement, and was paid by the Tenant. The Landlord's representative stated that the Tenant was asked to pay the unpaid electricity when he became aware of the oversight. On June 20, 2024 the Landlord's representative emailed the Tenant a copy of the Landlord's Application, which sought payment for the unpaid electricity. In the body of the June 20, 2024 email it stated:
- "Dear [Tenant]  
We have filed a complaint against you with the rental board for non-payment of utilities, property damage and disturbances to other tenants. I am attaching Form 2B for your reference."*
- [30] On July 30, 2024 more than one month later, after not receiving payment for the unpaid electricity, the Landlord's representative served the Notice to the Tenant for non-payment of the electricity, along with other reasons.
- [31] I find that the Landlord has met the two requirements of subsection 60(6) of the Act. Further, I find that the Tenant admitted to knowing that electricity was always the responsibility of the Tenant, and that the reason he did not pay the electricity was because of the condition of the Unit.
- [32] I find that the Tenant did not have a right under the Act to withhold payment for the electricity. Therefore, the Landlord has a valid cause to terminate the tenancy agreement. The Notice is valid and this part of the Tenant's Application is dismissed. The Tenant and all occupants must vacate the Unit by the timeline below.
- [33] The Landlord's representative had two additional reasons for terminating the tenancy agreement. The Landlord submitted documentary evidence and had two witnesses testify regarding these reasons. However, it is unnecessary in this decision to determine these additional reasons for ending the tenancy.

**Tenancy Agreement Form**

- [34] I find that the Landlord used a *Form 1 – Standard Form of Rental Agreement* dated February 9, 2024. This is the old rental agreement, which was prescribed under the *Rental of Residential Property Act*.
- [35] Since April 8, 2023 landlords on Prince Edward Island have been required to prepare a written tenancy agreement containing specific information. Subsections 11(1) and (2) of the Act state:
- (1) *A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*
  - (2) *The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*
    - (a) *the provisions set out in Division 4;*
    - (b) *the correct legal names of the landlord and tenant;*
    - (c) *the address of the rental unit;*
    - (d) *the date the tenancy agreement is entered into;*
    - (e) *the address for service and telephone number of the landlord, or the landlord's agent, and the tenant;*
    - (f) *the services and facilities included in the rent;*
    - (g) *the amount of rent that was charged, and the services and facilities that were provided, to the previous tenant of the rental unit, unless there was no previous tenant;*
    - (h) *the name and contact information of any person the tenant is to contact for emergency repairs; and*
    - (i) *the agreed terms in respect of*
      - (i) *the date on which the tenancy starts,*
      - (ii) *if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis,*
      - (iii) *if the tenancy is a fixed-term tenancy, the date on which the term ends,*
      - (iv) *the amount of rent payable for a specified period,*
      - (v) *the day on which the rent is due and the frequency of payment, and*
      - (vi) *the amount of any security deposit and the date the security deposit was or is required to be paid.*
- [36] The Landlord must comply with these requirements in the Act and prepare written tenancy agreements using the standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*), which is available on the Rental Office's website.

**IT IS THEREFORE ORDERED THAT**

1. The tenancy between the parties must terminate effective **5:00 p.m. on October 18, 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 11th day of October, 2024.

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(sgd.) Cody Burke

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.