

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On September 12, 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 of the Unit.
- [3] The Application was supported by a *Form 4 (A) Eviction Notice* (the “Notice”). The Notice was dated August 19, 2024, effective September 8, 2024. I amend the Notice pursuant to clause 85(1)(l) of the Act to add the Unit’s address. The Notice was posted to the Unit’s door on August 19, 2024, for the following reason:

You have not paid your rent in the amount of \$716.

- [4] On September 19, 2024, a notice of teleconference hearing was emailed to the parties for October 1, 2024.
- [5] On September 27, 2024, an evidence package was emailed to the parties.
- [6] On October 1, 2024, a teleconference hearing was held. The Landlord representative (the “Representative”) and the Tenant participated in the hearing.

ISSUE

Must the Tenant and all occupants vacate the Unit pursuant to the Notice?

SUMMARY OF THE EVIDENCE

- [7] On September 1, 2021, the parties entered into a written month-to-month tenancy agreement for the Unit. The Unit is an apartment in a multi-unit building. Rent is \$716.00 due on the first day of the month and a security deposit of \$200.00 was paid.

EVIDENCE AND SUBMISSIONS

The Representative’s evidence is summarized as follows.

- [8] The Tenant is often late paying rent. When the Representative tries to contact the Tenant about the late rent, the Tenant will often not respond. There have been some NSF charges in the past when the Landlord has tried to take rent from the Tenant’s bank account.
- [9] The Tenant failed to pay rent for August 2024 and the Representative served the Notice on August 19, 2024. After the Notice was served the Tenant paid \$260.00 but still owes \$456.00 in outstanding rent as of the date of the hearing. Rent for September 2024 was paid on September 3, 2024. A copy of the Tenant’s rental ledger was submitted into evidence.

The Tenant’s evidence is summarized as follows.

- [10] The Tenant agreed with the amount of rent owing as stated by the Representative. The Tenant has had some health challenges which makes communicating with the Representative difficult. The Tenant submitted she is hoping to have the outstanding rent and October 2024 rent paid by October 7, 2024.

Post Hearing Evidence and Submissions

- [11] On October 8, 2024, the Representative notified the Rental Office that the Tenant has paid rent for October 2024. The Tenant paid an additional \$210.00 towards the rental arrears rent but still owes \$244.00. The Representative stated he will extend the vacate date to January 1, 2025.

ANALYSIS & CONCLUSION

- [12] I conclude that the Tenant did not pay the outstanding rent for August 2024 (\$716.00) within ten days of being served the Notice. Therefore, the Notice was not invalidated pursuant to clause 60(4)(a) of 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.*

- [13] The Tenant did not file an application with the Rental Office to dispute the Notice. I find that the Tenant is 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.*

- [14] 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

- I. The tenancy agreement between the parties will terminate effective 5:00 p.m. on January 1, 2025. The Tenant and all occupants must 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 15th day of October, 2024.

(sgd.) Mitchell King
Mitchell King
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 **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.