

INTRODUCTION

- [1] The Landlord seeks an Order requiring the Tenants to vacate the Unit because the Tenants have not paid rent.

DISPOSITION

- [2] I find that the Tenants must vacate the Unit due to non-payment of rent.

BACKGROUND

- [3] The Unit is a three-bedroom, one-bathroom rental unit, being one part of a duplex building that the Landlord has owned since 2011.
- [4] The parties entered into a written, fixed-term tenancy agreement for the Unit for the period of January 27, 2017 to December 31, 2017. At the end of the term the agreement continued on a month-to-month basis. Rent in the amount of \$927.00 is due on the first day of the month. A \$650.00 security deposit was paid at the beginning of the tenancy.
- [5] On September 10, 2024 the Landlord served the Tenants with a *Form 4 (A) Eviction Notice* (the "Notice") for non-payment of rent. The effective date in the Notice was September 20, 2024. I note that the effective date of the Notice is automatically changed to September 30, 2024, the minimum 20-day effective date, pursuant to section 54 of the *Residential Tenancy Act* (or the "Act").
- [6] On October 9, 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 an Order for vacant possession of the Unit and for the Sheriff to put the Landlord in possession, which is the subject of this decision. The Landlord posted the Application to the Unit's door.
- [7] The Application also included a monetary claim for rent owing, which is the subject of Order LD24-353.
- [8] On October 10, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for 9:00 a.m. on October 22, 2024 (the "Notice of Hearing") along with a copy of the Application. On October 11, 2024 the Rental Office sent an additional copy of the Notice of Hearing and the Application to one of the Tenants by registered mail.
- [9] On October 17, 2024 the Rental Office emailed the parties a 36-page evidence package.
- [10] On October 22, 2024 the Landlord joined the teleconference hearing at 9:00 a.m. but the Tenants did not join. I telephoned two numbers for the Tenants but no one answered. I emailed the Tenants an additional copy of the Notice of Hearing and the Application. At 9:15 a.m. I proceeded with the hearing in the absence of the Tenants.

ISSUE

- A. Must the Tenants vacate the Unit?

ANALYSIS

- [11] The Landlord's basis for terminating the tenancy is pursuant to subsection 60(1) of the *Act*, which states:

A landlord may end a tenancy if rent is unpaid after the day it is due, by giving a notice of termination effective on a date that is not earlier than 20 days after the date the tenant receives the notice.

[12] The Landlord’s undisputed evidence establishes that rent is due on the first day of the month and the Tenants did not pay September 2024’s rent, in the amount of \$927.00. Therefore, rent was owed as of September 10, 2024, the date the Notice was served.

[13] The Landlord’s undisputed evidence also establishes that the Tenants did not pay rent for September or October of 2024 after the Notice was served. Therefore, the Notice was not invalidated pursuant to clause 60(4)(a) of the *Act*, which states:

*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.*

[14] The Tenants did not file an application with the Rental Office disputing the Notice.

[15] For these reasons, I find that the Notice is valid and the Application is allowed. The Tenants and all occupants must vacate the Unit by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties shall terminate effective **5:00 p.m. on October 29, 2024**. The Tenants 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 22nd day of October, 2024.

(sgd.) Andrew Cudmore

Andrew Cudmore
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.