

INTRODUCTION

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

DISPOSITION

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

BACKGROUND

- [3] The Unit is situated in a four-unit apartment building.
- [4] On September 26, 2023 the parties entered into a written, fixed-term tenancy agreement for the Unit for the period of October 1, 2023 to September 30, 2024. Rent in the amount of \$1,030.00 is due on the first day of the month. A \$1,000.00 security deposit was paid at the beginning of the tenancy.
- [5] On September 4, 2024 the Landlord served the Tenant with a *Form 4 (A) Eviction Notice* (the "Notice") for non-payment of rent. The effective date in the Notice was September 24, 2024.
- [6] On October 1, 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 emailed the Tenant the Application.
- [7] The Application also included a monetary claim for rent owing, which is the subject of Order LD24-356.
- [8] On October 15, 2024 the Rental Office emailed the parties notice of a teleconference hearing scheduled for October 22, 2024, along with a copy of the Application.
- [9] On October 18, 2024 the Rental Office emailed the parties an evidence package.
- [10] On October 22, 2024, two representatives for the Landlord (the "Representatives") joined the teleconference hearing at 9:00 a.m. The Tenant did not join. I telephoned the Tenant, and left a voice message of the details for the teleconference hearing. At 9:10 a.m. I proceeded with the hearing in the absence of the Tenant.

ISSUE

- A. Must the Tenant vacate the Unit?

ANALYSIS

- [11] The Landlord's basis for terminating the tenancy is pursuant to subsection 60(1) of the *Residential Tenancy Act* (or 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 Representatives' undisputed evidence establishes that rent is due on the first day of the month and the Tenant did not pay September 2024's rent, in the amount of \$1,000.00. Therefore, rent was owed as of September 4, 2024, the date the Notice was served.

[13] The Representatives' undisputed evidence also establishes that the Tenant did not pay rent for September or October 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 Tenant 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 Tenant 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 30, 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 23rd day of October, 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 (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.