

INTRODUCTION

- [1] The Landlord seeks to terminate the tenancy agreement for cause under clauses 61(1)(h) and (i) of the *Residential Tenancy Act* (the “Act”).
- [2] The Tenant disputes the Landlord’s reasons for terminating the tenancy agreement.

DISPOSITION

- [3] I find that the Landlord has not established valid reasons for terminating the tenancy agreement.

BACKGROUND

- [4] The Unit is a mobile home in a mobile home park (the “Residential Property”).
- [5] The Tenant moved into the Unit in October 2021 pursuant to an oral, month-to-month tenancy agreement with the former landlord of the Residential Property. The Landlord purchased the Residential Property in May 2023 and the tenancy agreement continued. The rent for the Unit is \$1,300.00 per month, due on the first day of the month. The Tenant paid a \$500.00 security deposit to the former landlord.
- [6] On September 24, 2024, the Landlord served the Tenant with a *Form 4 (A) Eviction Notice* (the “Notice”), effective on October 31, 2024, by email.
- [7] The Landlord seeks to terminate the tenancy agreement for the following reasons:
- You have failed to comply with a material term of the tenancy agreement despite written warning; and*
You have sublet the rental unit without the landlord’s consent.
- [8] On October 1, 2024, the Tenant filed a *Form 2 (A) Tenant Application to Determine Dispute* (the “Application”) with the Residential Tenancy Office (the “Rental Office”) disputing the Notice. The Tenant emailed the Application to the Landlord on the same date.
- [9] On October 7, 2024, the Rental Office emailed the parties notice of a teleconference hearing scheduled for October 17, 2024.
- [10] On October 11, 2024, the Rental Office emailed the parties an evidence package which included messages between the parties and photographs of the Unit and the Residential Property.
- [11] On October 17, 2024, a teleconference hearing was held. The Landlord representative (the “Representative”) and the Tenant participated in the hearing.
- [12] Between October 17 and 22, 2024, the parties sent additional evidence to the Rental Office. The additional evidence was shared with both parties and both parties provided responses to the additional evidence.
- [13] The parties had previous Rental Office hearings on March 26, 2024, and April 13, 2024, regarding disputes over eviction notices. In both matters the eviction notices were found to be invalid.

ISSUE

- A. Must the Tenant and all occupants vacate the Unit?

ANALYSIS

- [14] The Landlord's basis for terminating the tenancy are pursuant to subsections 61(1)(h) and (i) of the Act, which states a landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

(h) the tenant

(i) has failed to comply with a material term of the tenancy agreement, and

(ii) has not corrected the situation within a reasonable time after the landlord has given written notice to do so;

(i) the tenant purports to assign or sublet the rental unit without first obtaining the landlord's written consent as required by section 30.

Threats

- [15] The Representative stated that the Tenant threatened her by messaging that the Landlord should call a lawyer and that the Tenant may file a civil suit against the Landlord. The Representative stated the Tenant has sworn at her and other tenants of the Residential Property. The Tenant disputed that he has threatened the Representative or any other tenants of the Residential Property.
- [16] I find that the Landlord has not provided sufficient evidence to establish that the Tenant has threatened the Representative. I note that although the Tenant's messages may be concerning to the Landlord, these messages are not sufficient grounds for the termination of the tenancy agreement. There is also insufficient evidence to establish that the Tenant has sworn at the Representative.
- [17] I further find that the Landlord has not provided sufficient evidence, such as witness testimony from other tenants, to establish that the Tenant has threatened or sworn at any other tenant of the Residential Property.

Garbage

- [18] The Representative stated that the Tenant has garbage in and around the yard of the Unit and the Tenant has refused to clean up the garbage. The Tenant disputed the garbage around the Unit belongs to him and stated it may have blown in from surrounding units. The Tenant stated his black bin was rejected two weeks ago and he had to store his garbage outside the Unit until the next garbage day, which is the day after the hearing.
- [19] I find that the Landlord has not provided sufficient evidence to establish the alleged garbage violations are valid reasons for terminating the tenancy agreement. On September 23, 2024, the Representative emailed the Tenant and stated that on September 20, 2024, the Tenant's son had cleaned up the garbage around the Unit. Therefore, I find that the Tenant has complied with the Landlord's request to clean the garbage around the Unit.
- [20] With regards to the garbage bags outside the Unit, the Tenant stated the day after the hearing is the next garbage day and he will dispose of the garbage bags at that time. I find it reasonable that the Tenant was unable to dispose of the garbage bags for two weeks until the next garbage day.

Parking

- [21] The Representative stated that the Tenant is only allowed to have one vehicle parked at the Unit but the Tenant has two vehicles parked there. The Representative stated this is the same rule which was in place with the previous landlord. The Tenant has repeatedly been told to remove one of the vehicles but the Tenant has refused.
- [22] The Tenant stated the Landlord changed the parking rules after purchasing the Unit and the Tenant always had access to two parking spots. The Tenant did have two vehicles at the Unit because one of the vehicles needed repairs. The Tenant has since put one vehicle into storage for the winter and there is only one vehicle parked at the Unit.
- [23] I find that the Landlord has not provided sufficient evidence to establish the alleged parking violation as a valid reason for terminating the tenancy agreement. The parties disputed the parking rules established by the previous landlord and I find that the Landlord has not provided sufficient evidence to establish the details of the previous rules. If the Landlord wanted to change the parking rules after purchasing the Unit, the Landlord would need to apply to the Rental Office to terminate or restrict this service pursuant to Section 21 of the Act.

Subletting

- [24] The Representative stated that the Tenant is subletting to his son and the Tenant was not given permission to sublet. The Representative stated the Tenant and his son are also defrauding the government by obtaining social assistance benefits they are not entitled to. The Landlord does not want to rent to parties who are involved in fraudulent activities.
- [25] The Tenant stated that his son lives with him and helps to pay a portion of the rent and he does not consider his son a sub-tenant. His son has paid rent directly to the Landlord in the past and the rent was accepted. The Tenant stated his son has lived with him for a considerable length of time and this had not been an issue with the Landlord before. The Tenant disputed the Landlord's accusations of fraud.
- [26] I find that the Landlord has not provided sufficient evidence to establish that the Tenant has contravened the Act by subletting without permission. The submitted evidence establishes that the Landlord has requested and received several rent payments directly from the Tenant's son as far back as November 2023. There are also submitted messages showing that in April 2024, the Landlord requested the Tenant's son's personal information for the Landlord's records, because the son was living in the Unit.
- [27] I find that the Landlord has acquiesced (condoned) in the Tenant's son living in the Unit and paying a portion of the rent for almost one year. If the Landlord was concerned about the Tenant's son living in the Unit or a potential subletting issue, then the Landlord should have addressed the matter when it initially came to the Landlord's attention.
- [28] The parties provided conflicting evidence regarding alleged fraudulent activities. The evidence presented is insufficient to terminate the tenancy.

CONCLUSION

- [29] I find that the Notice is invalid and the Application is allowed.
- [30] The tenancy agreement between the parties will continue in full force and effect.

IT IS THEREFORE ORDERED THAT

1. The tenancy agreement between the parties will continue in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 25th 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 (the “Commission”) by serving a Notice of Appeal with the Commission and every party to this Order within **20 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.