

**INTRODUCTION**

- [1] The Landlord seeks to end the Tenant's tenancy based upon a notice of termination and an application for earlier termination. The Tenant disputes the termination of the tenancy agreement.

**DISPOSITION**

- [2] I find that the Landlord has not established a valid basis for ending the tenancy agreement.

**BACKGROUND**

- [3] The Unit is a two-bedroom, one-bathroom rental unit located in a four-unit building (the "Residential Property") that the Landlord has owned since 2009.
- [4] The Tenant, the Landlord and the Landlord's witness ("LW1") entered into a single written, month-to-month tenancy agreement for the Unit that commenced on May 1, 2023. A \$1,500.00 security deposit was paid at the beginning of the tenancy. Rent in the amount of \$1,545.00 is due on the first day of the month. The parties were unable to locate a copy of the tenancy agreement.
- [5] On October 9, 2024 the Landlord served solely the Tenant with a *Form 4 (A) Eviction Notice* (the "Notice") dated October 7, 2024 for repeatedly late rent payments and for behaviour significantly interfering or unreasonably disturbing others.
- [6] The effective date of the Notice is October 31, 2024. I note that this effective date is automatically changed to November 30, 2024 pursuant to section 54 of the *Residential Tenancy Act* (or the "Act") because the Landlord was required to provide the Tenant with a minimum of one full month's notice (see subsection 61(3)).
- [7] On October 10, 2024 the Tenant filed a *Tenant Application to Determine Dispute* (the "Tenant's Application") with the Residential Tenancy Office (the "Rental Office") disputing the Notice.
- [8] On October 15, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 29, 2024 along with a copy of the Tenant's Application.
- [9] On October 16, 2024 the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Landlord's Application") with the Rental Office seeking earlier termination of the tenancy agreement. The Rental Office provided the parties with an updated notice of hearing along with the Landlord's Application.
- [10] On October 23, 2024 the Rental Office emailed the parties a 185-page evidence package (the "Evidence Package" or "EP"). The documentary evidence was predominantly from the Tenant.
- [11] On October 29, 2024 the Tenant, the Landlord and LW1 joined the teleconference hearing. The Tenant confirmed receipt of the Evidence Package and confirmed that the documentary evidence the Tenant submitted to the Rental Office was included.
- [12] At the hearing the Landlord stated that she had not seen the Evidence Package. The Landlord was able to locate the Evidence Package in her emails and confirmed that the documentary evidence the Landlord submitted to the Rental Office was included. I discussed an adjournment of the hearing with the Landlord to provide additional time to review the Evidence Package. The Landlord declined an adjournment and instead proceeded with the hearing as scheduled.

**ISSUE**

- A. Must the Tenant vacate the Unit due to the Notice or the Landlord's Application?

**ANALYSIS**

- [13] The Landlord's first reason in the Notice for ending the tenancy agreement is for repeatedly late rent payments (clause 61(1)(b)). I note that there are additional rules for unpaid utilities being treated as unpaid rent (see subsection 60(6)).
- [14] At the hearing the Landlord stated that she does not have an issue with the monthly rent payments from LW1 and the Tenant. The electricity and internet for the Unit are excluded from the rent and are solely in the name of LW1. The issue raised by the Landlord is that the Tenant has been repeatedly late paying LW1 the Tenant's share of the electricity and internet bills.
- [15] I note that there is no landlord-tenant relationship between the Tenant and LW1, who are instead both tenants of the Landlord pursuant to a single tenancy agreement.
- [16] The Landlord cannot step into the shoes of LW1 to generate an extra basis for the Landlord to end the tenancy agreement. I find that the Landlord has no valid basis to end the tenancy agreement regarding late electricity and internet payments between the Tenant and LW1.
- [17] The Landlord's second reason in the Notice for ending the tenancy agreement is pursuant to clause 61(1)(d), which states:
- 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.*
- [18] LW1 provided evidence regarding an incident on or about October 7, 2024 where the Tenant was yelling and slamming doors in front of LW1 and a family member.
- [19] The Landlord provided evidence regarding communications the Landlord received from the Tenant in June of 2024 regarding construction workers accessing the Unit for window repairs.
- [20] With regard to the October 7, 2024 incident, the Tenant's evidence was that she was returning to the Unit after being out of Province for approximately five days. The Tenant noticed that her personal belongings had been moved around and items had also been moved into the Tenant's bedroom. LW1 also had another family member living in the Unit. The Tenant was upset with LW1 and slammed a door. The Tenant apologized to LW1 for her behaviour.
- [21] The Tenant stated that the Landlord had allowed construction workers and other tenants of the Residential Property into the Unit and the Tenant's bedroom. The Tenant stated that the workers were not denied access to the Unit.
- [22] The correspondence between the Tenant and LW1 shows that they were friends for a significant period of time. Due to recent incidents regarding the care of cats in the Unit, cleanliness of the Unit's common areas, and other matters the relationship between the Tenant and LW1 has deteriorated and ultimately contributed to an incident on or about October 7, 2024. However, all of these incidents that have led to the deterioration of the friendship do not meet the threshold of significantly interfering or unreasonably disturbing that is required by the Act.

- [23] The Notice also states that others in the Residential Property are not feeling safe, however, LW1 was the only occupant that participated in the hearing as a witness for the Landlord.
- [24] Similarly, the relationship between the Landlord and the Tenant has deteriorated but the communications from the Tenant to the Landlord do not reach a threshold justifying termination of the tenancy agreement. Therefore, I find that the second reason in the Notice is also invalid.
- [25] The Landlord's reasons in the Notice for ending the tenancy overlap with the reasons in the Landlord's Application for earlier termination. The Landlord's Application includes a further reason, stating that the Tenant gave notice to move out of the Unit.
- [26] The Landlord argues that the Tenant had provided notice to LW1 that the Tenant would be moving out of the Unit. The Landlord submitted into evidence a text message from the Tenant to LW1 dated September 24, 2024 (EP 181). The Landlord also submitted into evidence a text message dated September 26, 2024 where the Tenant told LW1 that the new rental unit may not work out (EP 180).
- [27] The Tenant also submitted these messages into evidence plus an additional message where LW1 responds to the Tenant on September 25, 2024, stating that she just saw the Tenant's message sent on September 24, 2024 (EP125).
- [28] I have reviewed the correspondence submitted into evidence and I find that the Tenant did not provide a notice of termination to the Landlord, which is required by subsections 53(e) and 55(2) of the *Act*. As noted above, there is no landlord-tenant relationship between LW1 and the Tenant.
- [29] Further, a valid notice of termination requires a clear effective date where a tenant will be moving out of a rental unit (subsection 53(c)). In this case there was uncertainty in the message correspondence regarding a date that the Tenant would be moving out of the Unit. For these reasons, I cannot find that the Tenant gave notice to the Landlord to end the tenancy agreement.
- [30] In conclusion, I find that the Notice is invalid and the Landlord's Application is denied. The Tenant's Application is allowed. The tenancy agreement will continue and the Tenant can continue to live in the Unit.

#### IT IS THEREFORE ORDERED THAT

1. The tenancy agreement will continue and the Tenant can continue to live in the Unit.

**DATED** at Charlottetown, Prince Edward Island, this 30th day of October, 2024.

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(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 **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.