

- a. H.C. and N.A. are tenants of the Landlord (collectively referred to as the "Tenants").
- b. There are three separate tenancy agreements, individually referred to as "TA1", "TA2" and "TA3" (collectively referred to as the "Tenancy Agreements").

INTRODUCTION

- [1] The Landlord wants to terminate the Tenancy Agreements pursuant to clauses 61(1)(h) and (j) of the *Residential Tenancy Act* (or the "Act").
- [2] The Tenants dispute the Landlord's reasons for ending the Tenancy Agreements.

DISPOSITION

- [3] I find that the Landlord has not established valid reasons for terminating the Tenancy Agreements. The Tenancy Agreements will continue in full force and effect.

BACKGROUND

- [4] The Unit is an apartment in a triplex building owned by the Landlord (the "Residential Property").
- [5] In September of 2015, H.C. and the Landlord entered into a written, month-to-month tenancy agreement ("TA1"). Rent is \$1,131.00 due on the first day of the month. No security deposit was required.
- [6] In September of 2015, N.A. and H.C. entered into a written, month-to-month sublet tenancy agreement ("TA2"). Rent is \$938.00 due on the first day of the month. No security deposit was required.
- [7] In September of 2015, N.A. and the Landlord entered into a written, month-to-month tenancy agreement ("TA3"). Rent is \$1,000.00 due on the first day of the month. A \$1,000.00 security deposit was paid on September 24, 2015.
- [8] On September 11, 2024 the Rental Office issued Order LD24-292A finding that the tenancies will continue in full force and effect.
- [9] On October 6, 2024 the Landlord emailed the Tenants an amended *Form 4 (A) Eviction Notice* (the "Notice"), dated October 2, 2024 and effective November 30, 2024. Both H.C. and N.A. were named as tenants. The reasons for terminating the Tenancy Agreements included: non-compliance with a material term of the Tenancy Agreements and knowingly giving false information about the Residential Property.

The particulars of termination state:

"As per Order LD24-292, written notice provided Sept 12 / All animals in excess of 2 cats provided for in original rental agreement must be removed. Subtenant states I have caused her much anxiety for 9 years, forced her to sign the rental agreement, perpetrated unlawful behaviour and monetary charges and directed her to lie to the department. All of which are unretractable insults.

None of this is true, these allegations are false.

I have been renting apartments since 1976, never has there been such accusations of my character, prior to this file I would have been unknown to the Tenancy Office, being there twice for damages since 1976. The new requirement for all entry even with proper notice (an escort from the dept.) limits /hinders my property. This tenancy is untenable."

- [10] On October 7, 2024 a representative for H.C. (the “Representative”) mistakenly emailed a copy of the Notice to H.C. The Representative later rescinded their copy of the Notice and clarified that H.C. does not want to terminate TA2.
- [11] On October 7, 2024 H.C. filed an amended *Form 2 (A) Tenant Application to Determine Dispute* with the Residential Tenancy Office (the “Rental Office”) to dispute the Notice.
- [12] On October 9, 2024 N.A. filed a *Form 2 (A) Tenant Application to Determine Dispute* with the Rental Office to dispute the Notice. Collectively, H.C. and N.A.’s applications are referred to as the “Applications.”
- [13] On October 18, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 31, 2024, along with a copy of the Applications.
- [14] On October 29, 2024 the Rental Office emailed the parties an evidence package (“EP”).
- [15] On October 31, 2024 the Representative, N.A., a witness for N.A. and the Landlord participated in the hearing. The parties confirmed that they received and reviewed the evidence package and all documents submitted to the Rental Office were included.

ISSUE

- A. Must the Tenancy Agreements end due to the Notice?

ANALYSIS

- [16] For the reasons below, I find that the Landlord has not established valid reasons for terminating the Tenancy Agreements. The Tenancy Agreements will continue in full force and effect.
- [17] The Landlord’s bases for terminating the Tenancy Agreements are pursuant to clauses 61(1)(h) and (j) of the Act, which state:

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; and*
- (j) *the tenant knowingly gives false information about the residential property to a prospective tenant, a purchaser viewing the residential property or another person.*

Material term

- [18] The Landlord stated that the Tenants have not complied with the Tenancy Agreements. The Landlord stated that the tenancy agreement with N.A. only allowed two cats in the Unit. TA3 (EP14) was signed by the parties in September of 2015. The Landlord stated that “2 cats” was included in TA3 for the purpose of only allowing 2 cats in the Unit.
- [19] The Landlord stated that N.A. currently has six pets in the Unit (5 cats and 1 dog). The Landlord stated that it is ridiculous to have six pets in the Unit. The pets have caused damage to the floors in the Unit and the lawn of the Residential Property. The Landlord has not inspected the Unit.
- [20] The Landlord stated that H.C. has allowed N.A. to have six pets without asking him for permission. The Landlord stated that TA2 (EP33) the sublet tenancy agreement between H.C. and N.A. has a clause which states in part:

"Pets are not allowed on the premises without prior written consent by the Lessor..."

- [21] The Landlord stated that on September 12, 2024 he gave the Tenants a written warning to remove the 3 cats and 1 dog from the Unit within 20-days. The Landlord stated that the Tenants have refused to comply with the warning.
- [22] The Tenants disputed the Landlord's interpretation of the Tenancy Agreements' pet clauses.
- [23] N.A. stated that TA3 only states "2 children, 2 cats." TA3 does not have any restrictions about pets and there were no oral discussions about the limit of pets at the beginning of the tenancy. N.A. argued that by the Landlord's interpretation, if she had a third child, then she would face eviction.
- [24] N.A. stated that she looks after her pets and they have not caused damage to the Unit, beyond normal wear and tear after nine years of living in the Unit. N.A. stated that H.C. inspects the Unit annually and knew about the six pets and had no complaints.
- [25] N.A. stated that she has lived in the Unit for nine years and the first complaint came in July of 2024.
- [26] N.A. stated that the Landlord is trying to sell the Residential Property and has given other tenants warning letters about pets but has not given the other tenants eviction notices. N.A. stated that she is being treated unfairly by the Landlord.
- [27] N.A.'s witness provided testimony regarding the Landlord not inspecting the Unit and concern that the Landlord has not complied with the Act.
- [28] The Representative stated that H.C. inspects the Unit annually and she personally inspected the Unit in August of 2024. The Representative stated that the floor in the Unit was not damaged beyond normal wear and tear. H.C. has received no complaints about the number of pets in the Unit.
- [29] I have reviewed TA1 (between H.C. and the Landlord) and there is no mention of "pets." Therefore, I find there is no breach of a material term in TA1.
- [30] I have reviewed the evidence provided by the parties. In reference to TA2, the Landlord stated that there is a "no pets" clause, which N.A. has not complied with. The Landlord stated that N.A. had permission only for 2 cats. The Landlord relies on this clause to justify termination of the Tenancy Agreements.
- [31] I find that TA2 is a sublet agreement solely between H.C. and N.A. The Landlord is mentioned as a "property manager" in TA2. The Landlord is **not** a party to this tenancy agreement. Therefore, the Landlord cannot rely upon or enforce this clause without H.C.'s cooperation. In this case, the Representative stated that H.C. is not seeking to terminate TA2, and therefore TA2 cannot be terminated on this basis. It will remain in full force and effect.
- [32] Regarding TA3, the Landlord stated that the use of the words "2 cats" was intended to **only** permit 2 cats in the Unit.
- [33] I find that clause 61(1)(h) of the Act has two requirements to justify the termination of the Tenancy Agreements. The first requirement is that the Tenants have not complied with a material term of the Tenancy Agreements.
- [34] In this case, I find that TA3 does not have a material term which restricts the number of pets permitted in the Unit. TA3 states "N.A.'s name, 2 children, 2 cats." TA3 later states: "No wallpaper, no color changes, no large nail holes picture hanger holes to be repaired. Courtesy to the other tenants, no loud noise, no litter, trash cans at side of the building."

[35] TA3 has a particular section for restrictions which contains no references to pets. After reviewing TA3, I accept the Tenants' evidence that there were no restrictions in TA3 for pets. Therefore, I find that the Tenants have not failed to comply with a material term of the Tenancy Agreements. This reason for ending the Tenancy Agreements is invalid.

False Information

[36] The Landlord stated that N.A. gave false information to other tenants and on social media platforms like Facebook. The Landlord stated that this information is public. The Landlord stated that it is character assassination and untrue. The Landlord stated that N.A. is claiming he unlawfully increased the rent and has not complied with the Act. The Landlord stated that the tenancy is broken.

[37] The Landlord stated that for the purposes of the eviction, the Unit, the Residential Property and the landlord are all one of the same. If the Tenant provides false information against the Unit, then it is false information against the Landlord.

[38] N.A. stated that she has not given false information. The information that the Landlord opposes has already been addressed in another matter/application before the Rental Office.

[39] In this case, the Landlord has not submitted any direct evidence to establish that the Tenants have stated any false information. Further, there is a requirement that the Landlord must establish that the Tenants knowingly provided false information, which has not been established.

[40] I have reviewed the evidence, I find that clause 61(1)(j) of the Act requires that the Tenant knowingly gives false information about the Residential Property to specific individuals, not a potential member of the general public. In this case, I find that the Landlord has not provided sufficient evidence to establish that the Tenants breached clause 61(1)(j) of the Act.

[41] The Applications are allowed. The Notice is invalid and the Tenancy Agreement shall continue in full force and effect.

IT IS THEREFORE ORDERED THAT

1. The Notice is invalid and the Applications are allowed.
2. The Tenancy Agreements will continue in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 5th day of November, 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 **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.