

INTRODUCTION

- [1] The Landlord requests an Order requiring the Tenants to vacate the Unit because the Tenants have not paid rent.
- [2] The Landlords also request an Order that the Tenants owe rent for October and November 2024.

DISPOSITION

- [3] I find that the tenancy agreement will remain in full force and effect.
- [4] I find that the Tenants must pay rent to the Landlord.

BACKGROUND

- [5] The Unit is a two-bedroom and one-bathroom rental unit.
- [6] The Tenants are "E.O." and "T.M."
- [7] The parties signed a *Form 1 Standard Form of Rental Agreement*, fixed-term tenancy agreement from January 1, 2023 to December 31, 2024. A \$1,500.00 security deposit was paid. Rent is \$1,325.65 due on the first day of the month. The Tenants split the rent 50/50 and pay \$662.83 each.
- [8] On October 1, 2024 the Landlord's representative (the "Representative") served the Tenants with a *Form 4 (A) Eviction Notice* for non-payment of rent (the "Notice"). The effective date in the eviction notice was October 22, 2024. The eviction notice named only E.O. and was an older version of the eviction notice, without particulars of termination.
- [9] On October 24, 2024 the Representative filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application requests an Order for vacant possession of the Unit and for the Sheriff to put the Landlord in possession. The Application also included a monetary claim for rent owing. The Representative posted the Application to the Unit's door. The Representative also text messaged and emailed the Application to the Tenants.
- [10] On November 1, 2024 the Representative served the Tenants with two separate *Form 4 (A) Eviction Notices* (one naming E.O. and the other naming M.T.) for non-payment of rent for November 2024 and repeatedly late paying rent. The effective dates for both eviction notices are November 22, 2024. Both eviction notices are older versions of the eviction notice, without particular of termination.
- [11] Collectively, the November 1 eviction notices are referred to as the "Notices."
- [12] On November 1, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing (the "Notice of Hearing") scheduled for November 12, 2024, along with a copy of the Application. The Representative also posted the Notice of Hearing to the Unit's door.
- [13] On November 7, 2024 the Rental Office emailed the parties a 19-page evidence package.
- [14] On November 12, 2024 the Representative and the Tenants participated in the hearing. The parties confirmed receipt of the evidence package and confirmed that any documentary evidence submitted to the Rental Office was included.
- [15] At the hearing, the Representative amended the Application to increase the monetary claim to a total amount of \$1,366.83.

ISSUES

- i. Must the Tenants vacate the Unit?
- ii. Do the Tenants owe rent to the Landlord?

ANALYSIS**i. Must the Tenants vacate the Unit?**

- [16] The Landlord's basis for terminating the tenancy agreement is under 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.

- [17] The parties agreed that rent was due on the first day of the month and that the Tenants owe arrears.
- [18] The Tenants stated that they are students and work approximately 20-hours a week. The Tenants stated that they have trouble paying the rent on the first day of the month because they are waiting for their paychecks.
- [19] E.O. owes \$41.17 for October rent and \$662.83 for November rent.
- [20] M.T. owes \$662.83 for November rent.
- [21] The Tenants stated that they are going to pay all of their arrears once they receive their next paychecks.
- [22] The Representative stated that she does not want to evict the Tenants, but they have not paid rent for November 2024 and E.O. owes arrears for October 2024.
- [23] I have reviewed the evidence. I find that the Notice and Notices have many procedural defects and errors. All of the eviction notices are on an older version of the *Form 4 (A) Eviction Notice*. The Landlord must use the updated *Form 4 (A) Eviction Notice* which includes a particulars of termination which is available online in the forms section of the Rental Office's website.
- [24] The Notice is dated October 1 and was served to the Tenants on the same day. Rent is due on the first day of the month. I find that at the time the Notice was served for non-payment of rent, there was no valid basis for the Notice. The Landlord should have waited until at least the 2nd day of the month before serving the Tenants with the Notice for non-payment of rent.
- [25] Further, the Notices dated November 1 have the same error. The Landlord should have waited until at least the 2nd day of the month before serving the Tenants with the Notices for non-payment of rent.
- [26] Also, the Application was filed on October 24, 2024 because of the eviction notice dated October 1, 2024. The Application names the Tenants, however, the eviction notice named only E.O. The particulars of the Application also only mention E.O. vacating the Unit.
- [27] M.T. was not served an eviction notice until November 1, 2024 (E.O. also received a separate eviction notice).

[28] I further find that the hearing for determination of the Application happened on November 12, 2024. This was the last day for the Tenants to either pay the arrears to invalidate the Notices, and/or file an application with the Rental Office to dispute the Notices.

[29] I find that there are too many errors and procedural defects in the October 1 Notice and the November 1 Notices to find them valid. Therefore, I find that the October 1 Notice and the November 1 Notices are invalid. The claim for possession of the Unit is denied and the tenancy will continue in full force and effect.

ii. Do the Tenants owe rent to the Landlord?

[30] I find that the parties agreed that rent is owed to the Landlord. Despite the Notices being dismissed, I find that the Tenants owe the Landlord rent as calculated below.

[31] E.O. owes the Landlord \$704.00 (\$41.17 for October rent and \$662.83 for November rent).

[32] M.T. owes the Landlord \$662.83 for November rent.

[33] The Application is allowed in part.

Tenancy Agreement Form

[34] I note that the Landlord prepared a *Standard Form of Rental Agreement (Form 1)*, which is an outdated form prescribed under the former rental legislation, the *Rental of Residential Property Act*.

[35] The current *Standard Form of Tenancy Agreement (Form 1)*, based upon the *Residential Tenancy Act*, is available online in the forms section of the Rental Office's website.

[36] The *Residential Tenancy Act* has been in force since April 8, 2023 and the tenancy agreement commenced over three months later. The Landlord must use tenancy agreement forms that comply with the current legislation.

[37] In particular, subsections 11(1) and (2) include the following requirements:

- (1) *A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*
- (2) *The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*
 - (a) *the provisions set out in Division 4;*
 - (b) *the correct legal names of the landlord and tenant;*
 - (c) *the address of the rental unit;*
 - (d) *the date the tenancy agreement is entered into;*
 - (e) *the address for service and telephone number of the landlord, or the landlord's agent, and the tenant;*
 - (f) *the services and facilities included in the rent;*
 - (g) *the amount of rent that was charged, and the services and facilities that were provided, to the previous tenant of the rental unit, unless there was no previous tenant;*
 - (h) *the name and contact information of any person the tenant is to contact for emergency repairs; and*
 - (i) *the agreed terms in respect of*
 - (i) *the date on which the tenancy starts,*

- (ii) if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis,*
- (iii) if the tenancy is a fixed-term tenancy, the date on which the term ends,*
- (iv) the amount of rent payable for a specified period,*
- (v) the day on which the rent is due and the frequency of payment,*
- and*
- (vi) the amount of any security deposit and the date the security deposit was or is required to be paid.*

IT IS THEREFORE ORDERED THAT

1. The tenancy agreement will remain in full force and effect.
2. E.O. must pay the Landlord \$704.00 by November 30, 2024.
3. M.T. must pay the Landlord \$662.83 by November 30, 2024.

DATED at Charlottetown, Prince Edward Island, this 14th 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.