

INTRODUCTION

- [1] The Landlord seeks to end the Tenant's tenancy based upon a notice of termination.
- [2] The Tenant disputes the termination of the tenancy agreement.

DISPOSITION

- [3] The Landlord has not established a valid basis for ending the tenancy agreement.

BACKGROUND

- [4] The Unit is an apartment in a multi-unit building (the "Residential Property").
- [5] The Tenant moved into the Unit on July 1, 2024, under an oral, month-to-month tenancy agreement with the Landlord. The rent for the Unit is \$850.00, due on the first day of the month. A security deposit was not required.
- [6] On November 1, 2024, the Landlord served the Tenant with a *Form 4 (A) Eviction Notice* (the "Notice"), effective December 1, 2024.
- [7] This effective date is automatically changed to December 31, 2024, under section 54 of the *Residential Tenancy Act* (the "Act") because the Landlord was required to provide the Tenant with a minimum of one full month's notice and serve the Notice the day before rent is due (subsection 61(3)). I also note that the Notice is not the current Form 4(A), that there is no city/town listed, and that there are no particulars of termination.
- [8] On November 5, 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.
- [9] The Landlord seeks to terminate the tenancy agreement for the following reason:
- You or someone you have allowed on the property have disturbed or endangered others.*
- [10] On November 14, 2024, the Rental Office emailed the parties notice of a teleconference hearing scheduled for November 28, 2024.
- [11] On November 26, 2024, the Rental Office emailed the parties an evidence package.
- [12] On November 28, 2024, a teleconference hearing was held. The Tenant and the Landlord participated in the hearing. The parties confirmed they received the evidence package, and all submitted documents were included.

ISSUE

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

ANALYSIS

- [13] The Landlord stated that the Tenant has been disturbing other tenants of the Residential Property since she moved in. The Landlord has not witnessed any of the alleged incidents but has received several complaints from other tenants. Copies of messages from other tenants were submitted into evidence.

- [14] The Landlord stated that the complaining tenants told him that the Tenant often gets into fights in the Unit, which can be heard in neighbouring units. The Tenant can be heard yelling and slamming doors, and other tenants have called the police because of the disturbances. The Landlord's maintenance person has heard yelling and slamming doors in the Unit.
- [15] The Landlord stated he had warned the Tenant several times about her behaviour. The police had been called to the Unit several times, and the Landlord provided a police file number as evidence. The same individual keeps returning to the Unit and fights with the Tenant. The Landlord has requested a stay-away order against this individual, but the police cannot locate him to serve the order. Messages between the Landlord and Tenant were submitted into evidence.
- [16] The Tenant denied the allegations and is unaware of some of the claims stated by the other tenants. Another tenant does not like the Tenant and tries to get her into trouble. The Unit's walls are thin, and noise can easily travel between units. The Tenant acknowledged that she does speak loudly and that her voice can carry if her window is open.
- [17] The Tenant noted the police had only been to the Unit once to speak with her. Some of the other tenants' complaints reference the previous tenant of the Unit and should not be blamed on her. The Tenant stated she had not been at the Unit for several days before the hearing, so some of the complaints cannot be because of her.
- [18] I have reviewed the evidence and testimony of the parties. The Landlord stated he had not witnessed the alleged incidents and had relied on information from other tenants, his maintenance person, and the police. However, the Landlord did not call the complaining tenants or his maintenance person to be witnesses at the hearing. No documentation was submitted, other than a police file number, to establish that the police may have had a complaint against the Tenant.
- [19] When a landlord is evicting a tenant for cause, the best practice is for a landlord to have the affected parties or witnesses participate in the hearing. The parties or witness would affirm to tell the truth, provide their testimony, and be available to answer questions regarding their evidence. In this case, no additional parties or witnesses participated in the hearing to provide evidence regarding the alleged incidents.
- [20] In Order LR24-060, the Island Regulatory and Appeals Commission noted that terminating a tenancy is a serious matter, and a Landlord seeking to evict a tenant must put forward compelling evidence. I also note that it is not the responsibility of the Rental Office to contact a party's witnesses or obtain evidence for a hearing.
- [21] I find that the Landlord has not established, on a balance of probabilities, that the Tenant or anyone the Tenant permitted on the Residential Property has disturbed or endangered others.

IT IS THEREFORE ORDERED THAT

1. The Notice is invalid, and the Application is allowed.
2. The tenancy agreement will continue, and the Tenant can continue to live in the Unit.

DATED at Charlottetown, Prince Edward Island, this 5th day of December, 2024.

(sgd.) Mitch King

Mitch 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.