

INTRODUCTION

- [1] The Landlord applied for an Order requiring the Tenant to vacate the Unit because the Tenant has not paid rent.

DISPOSITION

- [2] I find that the Tenant and all occupants must vacate the Unit due to non-payment of rent.

BACKGROUND

- [3] In November of 2022 the parties entered into an oral tenancy agreement. Rent is \$400.00 due on the first day of the month and no security deposit was required.
- [4] On October 23, 2024 the Landlord emailed the Tenant a *Form 4 (A) Eviction Notice* (the "Notice") for non-payment of rent. The effective date of the Notice was November 12, 2024.
- [5] On October 28, 2024 the Landlord hand-delivered an additional copy of the Notice to the Tenant.
- [6] On November 18, 2024 the Landlord filed a *Form 2 (B) Landlord Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application seeks an Order for vacant possession of the Unit and for the Sheriff to put the Landlord in possession. The Landlord emailed the Application to the Tenant.
- [7] On December 3, 2024 the Rental Office emailed the parties notice of a teleconference hearing scheduled for December 12, 2024.
- [8] On December 11, 2024 the Rental Office emailed the parties a 16-page evidence package (the "Evidence Package").
- [9] On December 12, 2024, the Landlord posted a copy of the Evidence Package to the Unit's front door.
- [10] On December 12, 2024 the Landlord and her witness participated in the hearing. The Tenant did not call into the hearing at the scheduled time.
- [11] I temporarily delayed the hearing. I emailed the Tenant a reminder of the hearing and provided the teleconference details. I also telephoned the Tenant using the phone number provided on the Application. I received no response from the Tenant. After waiting ten minutes, the hearing proceeded in the Tenant's absence.

ISSUE

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

ANALYSIS

- [12] The Landlord's basis for terminating the tenancy is under subsection 60(1) of the *Residential Tenancy Act* (or 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.

- [13] The arrangement for paying rent was that the Tenant would e-Transfer \$400.00 every month to the Landlord's witness ("LW"), who is the Landlord's partner and the Tenant's sibling.

- [14] LW's account would automatically e-Transfer \$400.00 each month to the Landlord's account, regardless of whether the Tenant in fact paid the rent to LW.
- [15] The Landlord stated that she continued to see notifications and did not realize that the Tenant's last payment of rent to LW was on July 5, 2024. The Landlord stated that LW is not a property owner or landlord of the Unit and is essentially a property manager.
- [16] The Landlord stated that in September of 2024, after realizing the Tenant has not made any rent payments for August or September of 2024, she gave him an eviction notice that she found on the internet, which was not the Rental Office's standard form. The Landlord stated that the eviction notice was not accepted by the Rental Office.
- [17] The Tenant did not pay October's rent. On October 23, 2024 the Landlord emailed the Notice to the Tenant for non-payment of rent. On October 28, 2024, the Landlord hand-delivered a copy of the Notice to the Tenant because the Tenant did not respond to the emailed Notice.
- [18] The Landlord stated that she has not received any payment of rent and the Tenant continues to live in the Unit past the effective date of the Notice.
- [19] LW stated that he did not realize that the Tenant did not pay August's rent. LW stated that at the time he was starting a new job.
- [20] LW stated that he had some oral and text message conversations with the Tenant and believed that the Tenant was looking for a new place to live.
- [21] I have reviewed the evidence and my determination is as follows.

Service of the Notice

- [22] The Landlord emailed the Notice to the Tenant and stated that the email was active because that was the same email used when e-Transferring rent to LW.
- [23] Despite the email service, the Landlord took the additional step and hand-delivered the Notice on October 28, 2024. The Landlord's undisputed evidence establishes that the Tenant was properly served the Notice.

Non-payment of rent

- [24] Based on the Landlord's undisputed evidence, I find that the Tenant had outstanding rental arrears at the time the Notice was served. The Tenant did not pay the outstanding balance on the Notice within ten days of receiving the Notice. As a result, the Notice was not invalidated under clause 60(4)(a) of the Act, which states:

*Within 10 days after receiving a notice of termination under this section, the tenant may
(a) pay the overdue rent, in which case the notice of termination has no effect.*

- [25] Further, I find that the Tenant did not file an application with the Rental Office to dispute the Notice.
- [26] Therefore, I find that the Notice is valid and the Application is allowed. The Tenant must vacate the Unit by the timeline below.

IT IS THEREFORE ORDERED THAT

1. Effective 5:00 p.m. on Thursday, January 2, 2025 the tenancy agreement is terminated.
2. The Tenant and all occupants must vacate the Unit by this time and date.
3. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Act.

DATED at Charlottetown, Prince Edward Island, this 13th day of December, 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 **7 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.