

INTRODUCTION

- [1] The Landlord seeks an order requiring the Tenant and all occupants to vacate the Unit for non-payment of rent and repeatedly late rent payments.

DISPOSITION

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

BACKGROUND

- [3] The parties entered into a written, fixed-term tenancy agreement for the Unit for the period of June 15, 2024 to June 15, 2025. A security deposit of \$2,000.00 was paid on April 20, 2024. Rent of \$2,300.00 is due on the first day of the month.
- [4] On December 8, 2024 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of December 19, 2024 (the "Notice") for non-payment of December 2024 rent and repeatedly late rent payments. I note that the effective date regarding non-payment of rent is automatically changed to December 28, 2024 under section 54 of the *Residential Tenancy Act* (or the *Act*).
- [5] On January 3, 2025 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office") seeking vacant possession of the Unit and for the Sheriff to put the Landlord in possession, which is the subject of this decision. The Application also seeks rent owing and unpaid utilities, which is the subject of Order LD25-022.
- [6] On January 7, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for January 21, 2025.
- [7] On January 17, 2025 the Rental Office emailed the parties a ten-page evidence package (the "Evidence Package"). On January 20, 2025 an additional copy of the Evidence Package was sent to the Tenant.
- [8] On January 21, 2025 the Landlord and the Tenant joined the teleconference hearing for determination of the Application. The parties confirmed receipt of the Evidence Package and the parties confirmed that all documents submitted to the Rental Office were included. The Landlord submitted three additional pages of evidence which were provided to the Tenant during the hearing.

ISSUE

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

ANALYSIS

- [9] The Landlord's first reason in the Notice for terminating the tenancy is pursuant to 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.

- [10] The Tenant was responsible for paying December 2024's rent to the Landlord by December 1, 2024. The Tenant did not pay December 2024's rent, in the amount of \$2,300.00, by December 8, 2024. Therefore, rent was owed as of the date the Notice was served.

[11] The Tenant did not pay December 2024's rent within ten days of the date the Notice being served. December 2024 and January 2025 rent remains outstanding.

[12] Therefore, 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.

[13] For these reasons, I find that the Notice is valid and the Application is allowed.

[14] It is unnecessary for me to determine the Landlord's second basis for ending the tenancy regarding repeatedly late rent payments.

[15] The Tenant and all occupants must vacate the Unit by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate effective **5:00 p.m. on January 29, 2025**.
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 22nd day of January, 2025.

(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 **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.