

INTRODUCTION

- [1] The Landlord seeks an order requiring the Tenant to vacate the Unit based upon an application for earlier termination and an eviction notice.
- [2] The Tenant disputes the end of the tenancy and seeks compensation from the Landlord in the amount of \$2,235.00 for insufficient services in the Unit and breach of the Tenant's quiet enjoyment.

DISPOSITION

- [3] I find that the Landlord has not established sufficient grounds for ending the tenancy. The Tenant can continue to live in the Unit.
- [4] The Tenant has not established a claim for compensation.

BACKGROUND

- [5] The Unit is a bedroom with shared bathroom and kitchen facilities. The Unit includes one of three bedrooms on the first floor of a building. Room 2 on the first floor is currently empty but is available as an Airbnb rental and Room 3 has a long term guest. The Landlord lives on the second floor of the building and has separate bathroom and kitchen facilities.
- [6] Around December 15, 2024 the Tenant moved into the Unit as an Airbnb guest.
- [7] On December 17, 2024 the parties entered into a written, three-month fixed-term tenancy agreement for the Unit for the period of December 17, 2024 to March 16, 2025. A security deposit of \$900.00 was paid on December 19, 2024. Rent of \$900.00 is due on the first day of the month.
- [8] On January 17, 2025 the Landlord served the Tenant and filed with the Residential Tenancy Office (the "Rental Office") a first *Form 2(B) Landlord Application to Determine Dispute* (the "Earlier Termination Application") seeking vacant possession of the Unit early and for the Sheriff to put the Landlord in possession.
- [9] On January 17, 2025 the Landlord also served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of February 28, 2025 (the "Notice") for repeatedly late rent payments and behaviour.
- [10] On January 22, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for February 4, 2025.
- [11] On January 23, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office to dispute the Notice and seeking compensation from the Landlord. On January 30, 2025 the Tenant provided the Rental Office with further particulars of the claims and greater details of the parties and their contact information.
- [12] On January 30, 2025 the Landlord filed a second *Form 2(B) Landlord Application to Determine Dispute* (the "Eviction Notice Application") with the Rental Office seeking vacant possession of the Unit and for the Sheriff to put the Landlord in possession.
- [13] On January 31, 2025 the Rental Office emailed the parties a 45-page evidence package (the "Evidence Package").
- [14] On February 3, 2025 the Landlord submitted 20 additional pages of evidence to the Rental Office, which were emailed to the Tenant.
- [15] On February 4, 2025 the Landlord, the Landlord's interpreter and the Tenant joined the teleconference hearing for determination of the three applications. The parties confirmed receipt of

the Evidence Package and the additional evidence and the parties confirmed that all documents submitted to the Rental Office were included. The Landlord submitted additional evidence during the hearing which was provided to the Tenant.

ISSUES

- A. Must the Tenant vacate the Unit?
- B. Must the Landlord compensate the Tenant for insufficient services and breach of quiet enjoyment?

ANALYSIS

A. Must the Tenant vacate the Unit?

Repeatedly Late Rent Payments

- [16] The Landlord's first reason in the Earlier Termination Application and the Notice for ending the tenancy is for repeatedly late rent payments (clause 61(1)(b) of the *Residential Tenancy Act* (or the "Act"). I note that repeatedly late rent payments is not a permitted ground for ending a tenancy early (see subsection 61(8)).
- [17] The evidence of the parties establishes the following rent history:
 - December 17, 2024 - \$435.00 for pro-rated December 2024 rent;
 - January 1, 2025 at 9 PM - \$900.00 for January 2025 rent; and
 - February 2025 rent unpaid as of the teleconference hearing.
- [18] I note that, at the time the Earlier Termination Application and the Notice were served on January 17, 2025, the Tenant does not appear to have been late paying rent. The tenancy agreement does not specify a certain time of day that rent must be paid.
- [19] Even if the tenancy agreement did specify a payment time, being a few hours late on the payment due date would not amount to repeatedly late rent payments.
- [20] At the time of the teleconference hearing, the Tenant had not yet paid the rent for February 2025. This appears to be the first occurrence where the Tenant was late paying rent and does not amount to repeated late payments.
- [21] The Landlord may decide to serve the Tenant with a *Form 4(A) Eviction Notice* for non-payment of rent if February 2025 rent remains outstanding.

Behaviour Disturbing Others, Damage and Cleanliness

- [22] The Landlord's remaining reasons for ending the tenancy are based upon the Tenant's behaviour under clauses 61(1)(d), (f), (h) and 61(8).
- [23] The Landlord has the burden of proof to provide evidence on the civil standard of a balance of probabilities that at least one of the grounds in subsections 61(1) or (8) has been met.
- [24] The Landlord claims that the Tenant has done the following:
 - The Tenant accessed the Landlord's space and used toilet paper to wipe up water spills;
 - The Tenant has prolonged showers which leaves the other occupants without hot water;
 - The Tenant makes messes but does not clean the kitchen and the common areas;
 - The Tenant damaged a cabinet drawer and spray mop;

- The Tenant used white bath towels to wipe the floor without the Landlord's permission;
- The Tenant makes a lot of noise; and
- The Tenant has ignored communication attempts, been confrontational with the Landlord and played video games while the Landlord was present.

[25] The Tenant disputes that the Landlord has valid grounds for ending the tenancy. The Tenant claims that the Landlord is making noise from her unit and requested that the Landlord be gentle on the floors. The Tenant claims that the Landlord has improperly entered the Unit and the Landlord has failed to maintain or clean the common space.

[26] In Order LR24-64 the Island Regulatory and Appeals Commission made the following comment regarding a landlord ending a tenancy (para. 21):

"The termination of a tenancy is a serious matter and accordingly a Landlord seeking to evict a tenant must put forward compelling evidence..."

[27] I note that the Landlord's complaints against the Tenant have not occurred for a significantly long period as the Tenant has occupied the Unit for less than two months. The evidence establishes that the Tenant does not have access to the Landlord's space upstairs anymore and it appears that this access issue has been addressed.

[28] The landlord and tenant relationship between the parties has clearly deteriorated. However, the behaviour complained of by the Landlord has not reached a level that supports termination of the tenancy agreement under subsections 61(1) or (8).

[29] As a result, the Earlier Termination Application and the Eviction Notice Application are denied and the Notice is invalid. The Tenant can continue to live in the Unit.

[30] At the hearing the Landlord stated that the Unit is licensed under the *Tourism Industry Act*. If this is the case, then the Tenant would be expected to move out of the Unit at the end of the fixed term on March 16, 2025 under clause 52(2)(d) of the *Residential Tenancy Act*.

B. Must the Landlord compensate the Tenant for insufficient services and breach of quiet enjoyment?

[31] The Tenant claims against the Landlord for insufficient heat, hot water, Wi-Fi internet, snow removal and laundry services. The Tenant claims that the Landlord has breached his right to quiet enjoyment by improperly accessing the Unit, making excessive noise, failing to clean the common areas, and changing the entrance locks without providing the Tenant a code.

[32] The Landlord disputes the Tenant's compensation claims. The Landlord stated that the temperature is set to about 21 degrees Celsius and other occupants have not made complaints. The Landlord stated that the Tenant is responsible for the shortage of hot water in the building due to his excessive water use. The Landlord denied that she has restricted the Tenant's access to Wi-Fi internet.

[33] The Landlord stated that the Tenant improperly accessed her space, the Tenant makes excessive noise, and the Tenant is responsible for the mess in the common areas.

[34] The Landlord changed the means and door for accessing the Unit because the Tenant improperly accessed the Landlord's space. The Landlord stated that the police recommended that the Landlord avoid direct contact with the Tenant and the door for accessing the Unit was changed for this purpose. The Landlord stated that the Tenant refused to provide the Landlord with an email address and his telephone number was not working. The Landlord stated that the Tenant was provided with the code to the Unit through the Room 3 occupant. During the hearing the Tenant

had difficulty providing specific details regarding a period that the Tenant was unable to access the Unit due to the access issues.

- [35] I note that the Tenant did not provide documentary evidence regarding any specific, out-of-pocket expenses related to the financial claims in the Tenant Application. The parties did not submit into evidence any inspection report from the Department of Environmental Health regarding the Unit.
- [36] The Tenant has the burden of proof to establish the financial claims made in the Tenant Application. The Tenant's financial claims have been contested by the Landlord and there is insufficient objective evidence to support a monetary order in favour of the Tenant. As a result, the monetary claims in the Tenant Application are denied.
- [37] The parties provided evidence that there have been problems with the laundry machines since about January 20, 2025. However, the Landlord provided evidence regarding the efforts that have been made to address the problem and I find that monetary compensation is not supported at this time.
- [38] The correspondence between the parties shows that that Landlord at one point stated that she would throw out the Tenant's luggage. However, the Landlord did not in fact throw out the Tenant's luggage on the evidence presented. I find that this incident is insufficient to support a monetary claim. I note that the rules for disposing of personal property at the end of a tenancy are stated in section 43 of the *Act*. If the parties have any questions regarding the proper procedure to follow at the end of the tenancy, then the parties can contact the Rental Office for more information.
- [39] The Tenant's compensation claims are denied.

Tenancy Agreement Form

- [40] I note that the Landlord used an expired form for the written tenancy agreement. The current standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office's website.

IT IS THEREFORE ORDERED THAT

1. The tenancy agreement will continue in full force and effect and the Tenant can continue to reside in the Unit.

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