

INTRODUCTION

[1] The Tenants request the termination of their fixed-term tenancy agreement.

DISPOSITION

[2] I find that the tenancy agreement ends effective 5:00 p.m. on February 28, 2025.

BACKGROUND

[3] The Unit is an apartment located in a 36-unit building (the "Residential Property").

[4] On April 18, 2024 the parties agreed to a written, fixed-term tenancy agreement for the period of June 1, 2024 to May 30, 2025. Rent is \$2,100.00 due on the first day of the month, with the included services of water, janitorial services in the common areas, one parking spot, snow removal, lawn care and internet. A \$2,100.00 security deposit was paid at the start of the tenancy.

[5] On December 9, 2024 the Tenants filed a *Form 2 (A) Tenant Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application seeks approval to terminate the fixed-term tenancy agreement earlier than its end date. On December 10, 2024 the Tenants provided the Rental Office with further particulars of the claim.

[6] On December 17, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for February 4, 2025.

[7] On January 27, 2025 the Rental Office emailed the parties a 103-page PDF file (the "Evidence Package" or "EP"), which included one video recording submitted by the Tenants.

[8] The Landlord's representative (the "Representative") submitted three additional documents, which were higher quality images already included in the Evidence Package. The additional documents were sent to the Tenants.

[9] On February 4, 2025 the Tenants, the Representative and legal counsel for the Landlord called into the teleconference hearing for determination of the Application. The parties confirmed receipt of the Evidence Package, and that all documents received by the Rental Office were included.

ISSUE

i. May the fixed-term tenancy agreement end early?

ANALYSIS

[10] For the reasons below, I find that the tenancy agreement between the parties ends effective 5:00 p.m. on February 28, 2025.

[11] Subsection 55(3) of the *Residential Tenancy Act* (or the "Act") states:

A tenant may end a fixed-term tenancy by giving the landlord a notice of termination effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice;*
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy; and*
- (c) is the day before the day that rent is payable under the tenancy agreement.*

[12] On November 19, 2024 the Tenants served the Representative a *Form 3 Tenant Notice of Termination* (the "Notice") with an effective date of December 31, 2024.

- [13] The Tenants stated that living in the Residential Property is difficult for their children. During the winter months their children are unable to play outside, resulting in limited indoor activities. Other tenants and the Representative have complained about noise from their children playing in the Unit or in the Residential Property's hallways. The Representative has called the police due to the noise complaints.
- [14] The Tenants stated that they requested that the tenancy agreement be terminated earlier than the May 31, 2025 end date or sublet agreement. The Representative has denied both requests. The Representative has refused to negotiate or resolve the situation. The Tenants stated that the current environment is stressful and has negatively impacted their children's well-being.
- [15] The Tenants stated that they have purchased a house and are unable to afford both living arrangements. The Tenants stated that they have not paid rent for January or February 2025. The Tenants stated that they have January 2025's rent and were awaiting the hearing before paying it. The Tenants stated that they do not have February 2025's rent, and permitted the Representative to hold the Tenants' security deposit for February rent.
- [16] The Tenants stated that they have not damaged the Unit and that the Representative inspected the Unit a few days prior to the date of the hearing. The Tenants asked the Representative if she witnessed damage in the Unit. The Representative stated she did not witness damage during the inspection.
- [17] Despite the noise complaints and non-payment of rent, the Tenants have not received a *Form 4 (A) Eviction Notice*.
- [18] The Representative stated that the tenancy agreement is a one-year fixed-term, which ends May 31, 2025. The Unit was advertised immediately after receiving the Notice. The Representative stated that she had one showing for a prospective tenant, but did not receive the documents she requested from the prospective tenant. The Representative stated that she went on vacation over the holidays and when she returned, she advertised the Unit again for March 1, 2025.
- [19] The Representative stated that she accepts the tenancy ending on February 28, 2025. The Representative stated that she did not accept the sublet agreement proposed by the Tenants because the proposed subtenants were unable to provide the required documentation.
- [20] The Representative stated that the Tenants have not complied with the notice requirements of the Act. The Representative stated that there have been numerous noise complaints and the Tenants have not paid January and February rent. The Representative stated that she did not serve an eviction notice because she was waiting for the conclusion of the hearing.
- [21] The Representative stated that she does not want to commit to using the Tenants' security deposit for February rent until the end of the tenancy and an inspection of the Unit is completed to ensure no undue damage.
- [22] I have reviewed the evidence from the parties and my findings are as follows.
- [23] I find that despite the Tenants serving the Notice, they have not complied with subsection 55(3) of the Act. Particularly, the effective date of the notice cannot be earlier than the date specified in the tenancy agreement as the end of the tenancy (May 31, 2025). For that reason, I find that the Tenants do not have an authorized reason under the Act to terminate their tenancy agreement on December 31, 2024.
- [24] However, clause 85(1)(o) of the Act allows me the authority to terminate a tenancy agreement. The evidence of the parties establishes that the landlord-tenant relationship has deteriorate and that the Residential Property is no longer a suitable environment for the Tenants' children. The Representative stated that she does not object to ending the tenancy on February 28, 2025.

[25] I find that the tenancy agreement ends effective 5:00 p.m. on February 28, 2025.

[26] The Tenants are responsible for paying rent up to the end of the tenancy.

IT IS THEREFORE ORDERED THAT

1. The tenancy agreement ends effective 5:00 p.m. on February 28, 2025.

DATED at Charlottetown, Prince Edward Island, this 6th day of February, 2025.

(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.