

INTRODUCTION

- [1] The Landlord seeks to end the tenancy because a purchaser wants possession of the Unit. The parties disputed the effective date that the tenancy would end.
- [2] The Tenant seeks compensation for breach of quiet enjoyment in the amount of \$545.00.

DISPOSITION

- [3] I find that the Landlord has established a valid basis for ending the tenancy. The tenancy ends effective 5:00 p.m. on March 31, 2025.
- [4] I find that the evidence does not support compensation for breach of the Tenant's quiet enjoyment.

BACKGROUND

- [5] The Unit is one side of a side-by-side duplex (the "Residential Property").
- [6] In 2013 or 2014, the Tenant and the former landlord entered into a one-year, fixed-term tenancy agreement for the Unit. Upon the expiry of the fixed-term, the tenancy continued on a month-to-month basis.
- [7] In 2017, the Landlord purchased the Residential Property and the tenancy continued.
- [8] Effective January 1, 2025, the rent was \$1,090.54 due on the first day of the month.
- [9] At the hearing, the security deposit amount was unknown. The Landlord stated that he did not receive a security deposit from the former landlord, and the Tenant stated that she paid either \$350.00 or \$500.00 to the former landlord.
- [10] On January 10, 2025 the Tenant was served with a *Form 4(A) Eviction Notice* (the "Notice") dated January 20, 2025 for purchaser's possession, effective March 20, 2025.
- [11] On January 22, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office"). The Application sought to dispute the Notice and sought a monetary order for breach of quiet enjoyment.
- [12] On January 24, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for February 11, 2025.
- [13] On February 4, 2025 the Rental Office emailed the parties a 64-page PDF document (the "Evidence Package" or "EP").
- [14] On February 11, 2025 the Tenant and the Landlord joined the teleconference hearing for determination of the Application. The parties confirmed receipt of the Evidence Package and that all documents submitted to the Rental Office were included in the Evidence Package.

ISSUES

- A. Must the Tenant vacate the Unit due to the Notice and what is the effective date of the Notice?
- B. Has the Tenant established a claim for compensation for breach of quiet enjoyment?

ANALYSIS**A. Must the Tenant vacate the Unit due to the Notice and what is the effective date of the Notice?**

[15] For the reasons below, I find that the Notice is valid. The tenancy agreement will terminate effective 5:00 p.m. on March 31, 2025.

[16] The Landlord served the Notice to end the tenancy under clause 63(1)(a) of the *Residential Tenancy Act* (or the "Act"), which states:

A landlord of a residential property that contains fewer than three rental units who has entered into an agreement of purchase and sale of the residential property may, on behalf of the purchaser, give the tenant of a rental unit in the residential property a notice of termination if the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation by
(a) *the purchaser.*

[17] The Landlord stated that on December 19, 2024 he entered into an agreement of purchase and sale with a closing date of March 17, 2025 (EP51). The Landlord stated that he dated the Notice incorrectly. The Notice was supposed to be dated "January 10, 2025" with an effective date of "March 10, 2025."

[18] The Landlord stated that he gave the Tenant the required 60-days' notice and the Unit must be vacant by March 17, 2025.

[19] The Tenant stated that she is not disputing the validity of the Notice. The Tenant stated that she is disputing the effective date on the Notice. The Tenant stated that the effective date should be March 31, 2025.

[20] I have reviewed the evidence. I find that the Landlord has established a valid basis for ending the tenancy under clause 63(1)(a) of the Act. Included in the evidence was a signed affidavit from the purchaser (EP6) that is required under clause 63(3) of the Act. The affidavit was served to the Tenant.

[21] The parties disputed the effective date of the Notice. Clause 63(4) of the Act details the notice requirements, which states:

The date for termination specified in a notice of termination given under subsection (1) or (2) shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term, and
(a) *for the purposes of clauses (1)(a) and (2)(a), shall be at least two months after the notice is given.*

[22] In these circumstances, the tenancy agreement is a month-to-month agreement, where rent is due on the first day of the month. Clause 63(4) requires the effective date to be (1) *the day a period of the tenancy ends*, and (2) *at least two months after the notice is given*. The Notice was served on January 10, 2025. This means that at least two months is March 10, 2025, however, the day the period ends is the last day of the month as rent is due on the first day of the month. Therefore, the correct effective date for the Notice that was served on January 10, 2025 is March 31, 2025, automatically changed by section 54 of the Act.

[23] Clause 39(1) of the Act requires that the Tenant shall vacate the Unit by 5:00 p.m. on the day the tenancy ends. Therefore, I find that the tenancy agreement will terminate effective 5:00 p.m. on March 31, 2025.

[24] I remind the parties of the compensation requirements under section 72 of the Act, which state:

A landlord shall compensate a tenant who receives a notice of termination of a tenancy under section 62 or 63 in the amount to one month's rent plus reasonable moving expenses in accordance with the regulations or offer the tenant another rental unit acceptable to the tenant.

B. Has the Tenant established a claim for compensation for breach of quiet enjoyment?

[25] For the reasons below, I find that the evidence does not support compensation for breach of the Tenant's quiet enjoyment.

[26] The Application sought a monetary order in the amount of \$545.00 for inconvenience, as a result of the Landlord's agent breaching the Tenant's quiet enjoyment.

[27] Section 22 and subsection 23(c) of the Act state:

A tenant is entitled to quiet enjoyment of the rental unit including, but not limited to, the right to

(a) reasonable privacy;

(b) freedom from unreasonable disturbance;

(c) exclusive possession of the rental unit, subject only to the landlord's right to enter the rental unit in accordance with section 23; and

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

A landlord shall not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(c) the landlord or, with the written authorization of the landlord, the landlord's agent, requires access to the rental unit to allow a potential purchaser to view the rental unit and the landlord has given written notice to the tenant at least 24 hours before the time of entry.

[28] The Tenant stated that she is seeking half of December 2024's rent be returned. In December 2024 there were at least seven showings of the Unit. The Tenant stated that the realtor would not always provide 24-hour notice and would not inform her if there were cancellations. The Tenant stated that the showings were disruptive over the Christmas holidays, and resulted in cancelling family gatherings. The Tenant stated that her quiet enjoyment of the Unit was breached.

[29] The Landlord stated that he does not live in Prince Edward Island and for this reason his realtor handled the showings. The Landlord stated that he has a right to sell and show the Residential Property. The Tenant has a responsibility to cooperate and it not obligated to be in the Unit during the showings. The Landlord stated that the realtor did text message the Tenant 24-hours' notice whenever a showing was scheduled. The Landlord stated that the return of rent is not reasonable.

[30] I find that the evidence does not support compensation for breach of the Tenant's quiet enjoyment. The Tenant's quiet enjoyment must be considered in the context of the Landlord's express right under subsection 23(c) to show the Unit to potential purchasers. Further, subsection 22(c) provides the Landlord with an exception to the Tenant's right to exclusive possession.

[31] Based on the text messages submitted into evidence, I find that the Landlord's realtor did provide sufficient notice of the showings. When there was insufficient notice given, the Tenant denied access and the showings were rescheduled.

[32] Indeed, there is an added inconvenience factor in these circumstances given the Christmas holidays. It is understandable that the Tenant would prefer less showings during this time. However, I must balance the rights of the Tenant and the rights of the Landlord. In these circumstances, I find that a return of rent is not justified. Further, I note that the Tenant will receive compensation under the Act due to the end of the tenancy for purchaser's occupation.

CONCLUSION

[33] The Application is denied, and the Notice is valid. The tenancy agreement will terminate effective 5:00 p.m. on March 31, 2025.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate effective at **5:00 p.m. on March 31, 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 12th 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.