

**INTRODUCTION**

- [1] The Landlord seeks an order requiring the Tenant and all occupants to vacate the Unit for permitting an unreasonable number of occupants in the Unit, disturbing others and non-payment of rent.

**DISPOSITION**

- [2] I find that the Tenant and all occupants must vacate the Unit for disturbing others.

**BACKGROUND**

- [3] The Unit is a rental unit in a 28-unit motel (the "Residential Property").
- [4] In April 2024, the parties entered into an oral month-to-month tenancy agreement for the Unit. A \$950.00 security deposit was paid. Rent of \$950.00 is due on the first day of the month.
- [5] On December 7, 2024 the Landlord's representative (the "Representative") served the Tenant with a first *Form 4(A) Eviction Notice* with an effective date of December 30, 2024 (the "First Notice") for an unreasonable number of occupants and disturbing others. I note that the First Notice's effective date is automatically changed to January 31, 2025 under section 54 of the *Residential Tenancy Act* (or the "Act").
- [6] On January 22, 2025 the Representative served the Tenant with a second *Form 4(A) Eviction Notice* with an effective date of January 22, 2025 (the "Second Notice") for non-payment of rent. I note that the Second Notice's effective date is automatically changed to February 11, 2025 under section 54.
- [7] On February 11, 2025 the Representative 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 a claim against the security deposit, which is the subject of Order LD25-076.
- [8] On February 20, 2025 the Rental Office mailed the parties notice of a teleconference hearing (the "Notice of Hearing") scheduled for March 4, 2025. The Notice of Hearing was also emailed to the Representative and the Representative taped a copy of the Notice of Hearing to the Unit's door.
- [9] On February 28, 2025 the Rental Office emailed the Representative a 14-page PDF document (the "Evidence Package"). The Representative taped a copy of the Evidence Package to the Unit's door.
- [10] On March 4, 2025 the Representative joined the hearing for determination of the Application. The Tenant did not join the hearing. I left a voicemail message for the Tenant with the teleconference information. After a ten-minute delay, the hearing proceeded in the Tenant's absence. The Representative confirmed that all documents submitted to the Rental Office were included in the Evidence Package.

**ISSUE**

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

**ANALYSIS**

- [11] The Landlord's reasons in the First Notice for terminating the tenancy is under clause 61(1)(c) and (d) of the Act, which state:

*A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:*

- (c) there is an unreasonable number of occupants in the tenant's rental unit;*
- (d) the tenant or a person permitted on the residential property by the tenant has
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,*
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or*
  - (iii) put the landlord's property at significant risk.**

- [12] The Representative stated that the Tenant had numerous guests which often made loud noise at night. Other tenants in the Residential Property have complained about the noise and regular foot traffic.

- [13] The Representative stated that the Unit is significantly damaged, including the door frame, a large hole in the wall and damage to furniture and appliances. The Tenant changed the Unit's locks and did not provide a copy of the key to the Representative. The Representative stated that the Tenant and her guests smoke in the Unit.

- [14] The Landlord's reason in the Second Notice for terminating the tenancy is under 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.*

- [15] The Representative stated that the Tenant did not pay January 2025's rent. The Tenant paid February 2025's rent on January 31, 2025, in the amount of \$950.00. Currently one month's rent is outstanding along with the days in March 2025.

- [16] I have reviewed the Landlord's undisputed evidence and I find that the tenancy will end.

**The First Notice**

- [17] Subsection 61(6) of the Act states:

*Where a tenant who has received a notice of termination under this section does not make an application to the Director in accordance with subsection (5), the tenant*

- (a) is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and*
- (b) shall vacate the rental unit by that date.*

- [18] The evidence establishes that the Tenant did not file an application with the Rental Office disputing the First Notice. Further, the Tenant did not participate in the hearing to provide oral evidence regarding the First Notice.

- [19] I find that the Representative's undisputed direct evidence establishes a valid reason for terminating the tenancy under clause 61(1)(d) of the Act, for disturbing others and jeopardizing the lawful right of the Landlord by changing the locks of the Unit. Further, I find that the Tenant did not dispute the Notice by filing an application with the Rental Office and the Tenant is deemed to have accepted the First Notice under subsection 61(6).
- [20] For these reasons, I find that the First Notice is valid and the Application is allowed.
- [21] It is unnecessary for me to determine the Landlord's second reason for ending the tenancy in the First Notice regarding the number of occupants.
- [22] The Tenant and all occupants must vacate the Unit by the timeline below.

### The Second Notice

- [23] The undisputed evidence establishes that the Tenant was served with the Second Notice for non-payment of January 2025's rent on January 22, 2025. On January 31, 2025, nine days after the Notice was served, the Tenant paid the Landlord \$950.00.
- [24] The Representative stated that the January 31, 2025 payment was used for February 2025's rent. However, I find that the payment should have been applied to January 2025's rent because February 2025's rent was not due until February 1, 2025.
- [25] Clause 60(4)(a) of the Act 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.*
- [26] I find that the Tenant did pay the rent within ten days of receiving the Second Notice. Therefore, the Second Notice was invalidated.
- [27] The Landlord's undisputed evidence establishes that the Tenant still owes February 2025's rent and pro-rated rent for March 2025.

### Tenancy Agreement Form

- [28] At the hearing the Representative stated that the tenancy agreement was an oral month-to-month agreement that started April 2024.
- [29] I note that since April 8, 2023 landlords on Prince Edward Island have been required to prepare a written tenancy agreement containing specific information. Subsections 11(1) and (2) of the Act state:
- (1) *A landlord shall prepare a written tenancy agreement in respect of a tenancy that is entered into on or after the date this Act comes into force.*
  - (2) *The landlord shall ensure that the tenancy agreement complies with the requirements of this Act and the regulations and includes*
    - (a) *the provisions set out in Division 4;*
    - (b) *the correct legal names of the landlord and tenant;*
    - (c) *the address of the rental unit;*
    - (d) *the date the tenancy agreement is entered into;*
    - (e) *the address for service and telephone number of the landlord, or the landlord's agent, and the tenant;*
    - (f) *the services and facilities included in the rent;*

- (g) *the amount of rent that was charged, and the services and facilities that were provided, to the previous tenant of the rental unit, unless there was no previous tenant;*
- (h) *the name and contact information of any person the tenant is to contact for emergency repairs; and*
- (i) *the agreed terms in respect of*
  - (i) *the date on which the tenancy starts,*
  - (ii) *if the tenancy is a periodic tenancy, whether it is on a weekly, monthly or other periodic basis,*
  - (iii) *if the tenancy is a fixed-term tenancy, the date on which the term ends,*
  - (iv) *the amount of rent payable for a specified period,*
  - (v) *the day on which the rent is due and the frequency of payment, and*
  - (vi) *the amount of any security deposit and the date the security deposit was or is required to be paid.*

[30] The Landlord must comply with these requirements in the *Act* and prepare written tenancy agreements for all future tenants. The 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 between the parties will terminate effective **5:00 p.m. on March 12, 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 5th day of March, 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 **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.