

INTRODUCTION

- [1] The Landlord seeks an order requiring the Tenants and all occupants to vacate the Unit for non-payment of rent and breach of a material term of the tenancy agreement.
- [2] The Tenants dispute the termination of the tenancy agreement.

DISPOSITION

- [3] The Tenants and all occupants must vacate the Unit due to unpaid rent.

BACKGROUND

- [4] The Unit is a single-family house the Landlord owns.
- [5] The parties entered into a written, fixed-term tenancy agreement for the Unit from November 1, 2024, to October 30, 2025. Rent of \$1,500.00 is due on the first day of the month. A \$1,500.00 security deposit was paid at the beginning of the tenancy.
- [6] On January 17, 2025, the Landlord's representatives (the "Representatives") served the Tenants with a *Form 4(A) Eviction Notice* with an effective date of February 6, 2025 (the "First Notice") for unpaid rent for January 2025 of \$1,500.00.
- [7] On January 23, 2025, the Representatives served the Tenants with a *Form 4(A) Eviction Notice* with an effective date of February 28, 2025 (the "Second Notice") for failing to comply with a material term of the tenancy agreement despite written warning.
- [8] On January 27, 2025, the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Residential Tenancy Office (the "Rental Office") to dispute the First and Second Notices, to request a determination that the Landlord failed to repair or maintain the Unit, and additional compensation of \$25,000.00.
- [9] On February 2, 2025, the Representatives served the Tenants with a *Form 4(A) Eviction Notice* with an effective date of February 22, 2025 (the "Third Notice") for unpaid rent for February 2025 of \$1,500.00.
- [10] On February 7 and 24, 2025, the Representatives filed two *Form 2(B) Landlord Applications to Determine Dispute* with 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 "First and Second Landlord Applications"). The First and Second Landlord Applications also seek rent owed and additional compensation of \$460.00, which is determined in **Order LD25-094**.
- [11] On February 14, 2025, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for March 6, 2025.
- [12] On February 26, 2025, the Rental Office emailed the parties a 144-page evidence package, as well as five audio files, via Titan File.
- [13] On March 3, 2025, the Representatives filed a *Form 2(B) Landlord Application to Determine Dispute* with 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 "Third Landlord Application"). The Third Landlord Application also seeks additional compensation of \$2,793.88, which is determined in **Order LD25-094**.
- [14] The three Landlord Applications will be called the "Landlord Applications."

- [15] On March 6, 2025, the Representatives and a Tenant, representing both Tenants, participated in the teleconference hearing to determine the Landlord and Tenant Applications. The parties confirmed receipt of the evidence package and confirmed that all evidence submitted to the Rental Office was included.
- [16] After the hearing, both parties submitted additional evidence, which was shared with the other party.

ISSUE

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

ANALYSIS

- [17] The Landlord's reason in the First and Third Notices for terminating the tenancy are under subsection 60(1) of the *Residential Tenancy Act* (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.

- [18] The Representatives stated that the Tenants have not paid rent for January, February, or March 2025. The Representatives stated that the Tenants told the Landlords that they were not going to pay the rent owed.
- [19] The Representatives stated that on January 15, 2025, a mold remediation company attended the Unit at the Tenants' request, as the Tenants stated they found mold in the Unit. The Representatives stated that they were not aware of any mold in the Unit prior to this date. They stated that the Unit was inspected on June 10, 2024, by Tourism PEI, and no mold was detected at that time.
- [20] On January 19, 2025, the mold remediation company told the Representatives that they could perform the mold remediation on January 23, 2025. The Representatives stated that on January 20 and 21, 2025, the Tenants were given written notice of the upcoming mold remediation and that they had to vacate the Unit during that time. On January 23, 2025, the mold remediation company attended the Unit, but the Tenants refused to allow the company into the Unit.
- [21] The Tenant stated that the Tenants have not paid rent for January, February, or March 2025 and that they are looking for another place to live. The Tenant stated that when his family moved into the Unit, he asked the Representatives if there was any mold in the Unit. The Representatives told the Tenants that the Unit had been recently renovated and that there was no mold.
- [22] The Tenant stated that in December 2024, the Tenant's family and dog all became sick. In January 2025, the Tenant found mold in the attic and a bedroom. The Tenant stated that he believes that the Representatives were not truthful when they told the Tenants there was no mold. The Tenant stated that the Tenants did not pay rent because of the condition of the Unit and because his family became sick.
- [23] Subsection 19(1) of the Act states:

A tenant shall pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has an express right under this Act to deduct or withhold all or a portion of the rent.

[24] I find that the evidence establishes that the Tenants did not pay the outstanding rent within ten days of the First and Third Notices being served, and the rent was still outstanding as of the hearing date. Therefore, the First and Third Notices were 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.

[25] I find that the First and Third Notices are valid for non-payment of rent, and the Landlord Applications are allowed.

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

[27] It is unnecessary for me to determine the Landlord's other reason for ending the tenancy.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate at **5:00 p.m. on March 19, 2025**. The Tenants and all occupants must vacate the Unit by this time and date.
2. 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 March, 2025.

(sgd.) Mitch King

Mitch King
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.