

INTRODUCTION

- [1] The Landlord seeks to end the tenancy based upon an eviction notice for damage to the Unit. The Tenant disputes the termination of the tenancy.
- [2] The Landlord seeks compensation from the Tenant for damage to the Unit.

DISPOSITION

- [3] I find that the eviction notice is invalid. The tenancy agreement will continue and the Tenant can continue living in the Unit.
- [4] The evidence does not establish that the Tenant caused unreasonable damage.

BACKGROUND

- [5] The Unit is a one-bedroom, one-bathroom apartment located in a four-unit building (the "Residential Property") that was originally built around the 1920s.
- [6] The Tenant and the former landlord entered into a written, month-to-month tenancy agreement for the Unit that commenced on November 1, 2022. The Tenant moved in one month early and paid a \$300.00 security deposit to the former landlord. Rent in the amount of \$688.00 is due on the first day of the month.
- [7] On November 20, 2024 the Landlord purchased the Residential Property and the Tenant's tenancy continued.

Previous Dispute

- [8] On November 27, 2024 the Landlord served the Tenant with a *Form 4(B) Eviction Notice* for renovations (the "Renovations Notice"). The Landlord did not apply beforehand to seek the Director of Residential Tenancy's approval to serve the Renovations Notice. The Landlord later filed two *Form 6 Landlord Application for Approval for Renovations/Repairs* with the Residential Tenancy Office (the "Rental Office").
- [9] On December 3, 2024 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office disputing the Renovations Notice.
- [10] On December 15, 2024 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* for behaviour (the "Behaviour Notice").
- [11] On December 16, 2024 the Tenant filed an additional *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office disputing the Behaviour Notice.
- [12] On January 14, 2025 the Tenant, the Landlord and the Landlord's interpreter participated in a teleconference hearing regarding the Renovations Notice and the Behaviour Notice.
- [13] On January 16, 2025 I issued Order LD25-015. I found that the Renovations Notice and the Behaviour Notice were invalid and I ordered as follows:

"The tenancy will continue and the Tenant can continue to live in the Unit."

Current Dispute

- [14] On February 10, 2025 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* for damage to the Unit (the "Damage Notice") effective March 29, 2025. I note that the effective date is automatically changed to March 31, 2025 under section 54 of the *Residential Tenancy Act* (or the *Act*).
- [15] On February 10, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office disputing the Damage Notice.
- [16] On February 13, 2025 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord Application") with the Rental Office claiming compensation from the Tenant for damage to the Unit.
- [17] On February 20, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for March 13, 2025 along with a copy of the Tenant Application and the Landlord Application.
- [18] On March 11, 2025 the Rental Office provided the parties with an evidence package through TitanFile containing documentary, audio and video evidence (the "Evidence Package").
- [19] On March 13, 2025 the Tenant, the Landlord and the Landlord's interpreter participated in a teleconference hearing regarding the Tenant Application and the Landlord Application. The parties confirmed that they received the Evidence Package and that all evidence submitted to the Rental Office was included.

ISSUES

- A. Must the Tenant vacate the Unit due to the Damage Notice?
- B. Must the Tenant compensate the Landlord for damage to the Unit?

ANALYSIS**A. Must the Tenant vacate the Unit due to the Damage Notice?**

- [20] The Landlord has the onus to prove, on the civil standard of the balance of probabilities, a valid reason to end the tenancy.
- [21] In Order LR24-64 the Island Regulatory and Appeals Commission made the following comment regarding a landlord ending a tenancy (paragraph 21):

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

Baseline Condition

- [22] For the reasons below I find that the Notice is invalid.
- [23] The Landlord seeks to end the tenancy under clause 61(1)(f) of the *Act*, which states:

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

(f) the tenant or a person permitted on the residential property by the tenant has caused unreasonable damage to a rental unit or the residential property;

- [24] The Tenant is not responsible for reasonable wear and tear (subsection 28(5)).
- [25] Based upon the evidence presented, I am not satisfied that the Tenant caused unreasonable damage.
- [26] There is limited evidence regarding the initial condition of the Unit as of November 1, 2022 when the Tenant moved in.
- [27] The Tenant and the former landlord did not complete a written move-in inspection report. The parties submitted photographs and videos which mainly shows the Residential Property's condition after the Landlord purchased this property on November 20, 2024, more than two years after the Tenant moved in.
- [28] Therefore, there is limited evidence regarding the original baseline condition of the Unit from which to assess any damage caused by the Tenant.
- [29] The Tenant provided evidence that the former landlord only completed limited repairs since November 1, 2022. The Tenant stated that the former landlord repaired a common area ceiling and completed some work to prevent mice from entering the Residential Property.
- [30] The Tenant submitted into evidence numerous videos and photographs of the Residential Property showing parts of the building in disrepair. This evidence appears to show damage that is related to the age of the Residential Property, built around the 1920s, and not deliberate damage caused by any tenant.
- [31] The evidence does not establish that the Tenant caused unreasonable damage.

Bathroom Floor

- [32] The Landlord claims that the Tenant is responsible for damage to the bathroom floor, particularly regarding an incident on February 8, 2025.
- [33] The parties stated that the bathroom does not have a ventilation fan.
- [34] On December 8, 2024 the Landlord and the Tenant completed a *Form 5 – Landlord Condition Inspection Report* which listed damage to the Unit which includes “*water damage to the bathroom floor and ceiling.*”
- [35] The Landlord claims that additional damage occurred after the inspection report was completed. The Landlord attended the Unit on February 8, 2025 regarding the Tenant's complaint of ceiling damage. The Landlord discovered water on the bathroom floor that seeped through the tiles.
- [36] The Landlord argues that the Tenant may have damaged the bathroom floor by showering without a shower curtain.
- [37] The Landlord submitted into evidence a video the Landlord's wife recorded on February 8, 2025 showing the bathroom floor. The Landlord stated that the two times he checked the bathroom there was no curtain.
- [38] During the hearing I noted that the Landlord's own video shows a curtain in the bathroom. The curtain is slightly above the top of the bathtub and is not in a normal position close to the ceiling. The Landlord then stated that the curtain was down when he arrived at the Unit.
- [39] The Tenant stated that he was home on February 8, 2025 when the Landlord was in the Unit's bathroom. The Tenant stated that the shower curtain was up when the Landlord arrived. The

Tenant believes that the Landlord took the shower curtain down while checking for damage. The Tenant put the curtain back up after the Landlord left.

[40] I note that the Tenant's videos show a bathroom shower curtain in the proper location. The Tenant stated that he uses a shower curtain while showering.

[41] The Tenant stated that the bathroom light does not always work which makes use of the bathroom challenging at times.

[42] The Tenant believes that the water in the bathroom may be coming up through the floor tiles.

[43] I find that the evidence establishes that the Tenant does in fact shower while using a bathroom curtain. I find that the evidence does not establish that the Tenant has engaged in deliberate or negligent acts that have damaged the bathroom floor. I note that the December 8, 2024 inspection report stated that the bathroom floor was damaged and I am not satisfied that any further damage was the Tenant's fault.

[44] For these reasons, I find that the Damage Notice is invalid and the Tenant Application is allowed. The tenancy will continue and the Tenant can continue to live in the Unit.

B. Must the Tenant compensate the Landlord for damage to the Unit?

[45] For the reasons above, I have found that the evidence does not establish that the Tenant caused unreasonable damage to the Unit.

[46] As a result, the Landlord's monetary claims based upon damage are also denied.

CONCLUSION

[47] The Notice is invalid and the Tenant Application is allowed. The tenancy will continue and the Tenant can continue to live in the Unit.

[48] The Landlord Application is denied.

IT IS THEREFORE ORDERED THAT

1. The tenancy will continue and the Tenant can continue to live in the Unit.

DATED at Charlottetown, Prince Edward Island, this 14th day of March, 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.