

INTRODUCTION

- [1] The Landlords seek termination of the tenancy agreement due to damage and behaviour.
- [2] The Tenant disputes the termination of the tenancy agreement.

DISPOSITION

- [3] I find that the Landlords have established a valid basis for ending the tenancy. The tenancy ends effective 5:00 p.m. on April 30, 2025.

BACKGROUND

- [4] The Unit is an apartment in a house the Landlords own (the "Residential Property"). The Landlords also live in the Residential Property below and separate from the Unit.
- [5] The parties entered into a written, month-to-month tenancy agreement for the Unit beginning November 1, 2024. Rent of \$800.00 is due on the first day of the month. A \$500.00 security deposit was paid at the beginning of the tenancy.
- [6] On February 28, 2025, the Landlords served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of March 21, 2025 (the "Notice") for the following reasons:

You or someone you have allowed on the property has caused damage to the rental unit;
You have not repaired damage to the rental unit;
You have failed to comply with a material term of the tenancy agreement;
You have knowingly given false information about the rental unit.

- [7] The Landlords served the Tenant an older version of the *Form 4(A) Eviction Notice*, which has no place to add particulars. However, the Landlords served the Tenant with a letter along with the Notice explaining the particulars of the eviction.
- [8] I note the effective date is automatically corrected to March 31, 2025, under section 54 of the *Residential Tenancy Act* (the "Act") to comply with the minimum notice period under subsection 61(3).
- [9] On March 6, 2025, the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Application") with the Residential Tenancy Office (the "Rental Office") to dispute the Notice.
- [10] On March 12, 2025, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for March 27, 2025.
- [11] On March 25, 2025, the Rental Office emailed the parties a 41-page evidence package.
- [12] On March 27, 2025, the Landlords and the Tenant participated in the teleconference hearing. The parties confirmed receipt of the evidence package and confirmed that all evidence submitted to the Rental Office was included.

ISSUE

- A. Must the Tenant vacate the Unit due to the Notice?

ANALYSIS

- [13] The Landlords' reasons in the Notice for terminating the tenancy are under subsection 61(1) of the Act, which state:

(1) 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;

(g) the tenant does not repair damage to the rental unit or residential property, as required under section 28(4), within a reasonable time;

(h) the tenant

(i) has failed to comply with a material term of the tenancy agreement, and

(ii) has not corrected the situation within a reasonable time after the landlord has given written notice to do so;

(j) the tenant knowingly gives false information about the residential property to a prospective tenant, a purchaser viewing the residential property or another person.

- [14] The Landlords stated that the Tenant is smoking cigarettes and marihuana in the Unit, but the tenancy agreement states that smoking is not allowed. The Landlords stated that they often smell the smoke in their unit, which is below the Tenant's Unit, on a regular basis. When the Landlords were in the Unit for repairs, they observed cigarette butts in an ashtray and on a table. The Landlords stated that their dog has allergies and the smoke bothers their dog.
- [15] The Landlords stated that on November 28, 2024, they attended the Unit to repair a leak in the Unit's bathtub. The Landlords found the Tenant had been smoking in the Unit, and they told the Tenant not to smoke in the Unit. They also found that the Unit was unclean and cluttered with the Tenant's personal belongings. They stated that the Tenant leaves her window open on a regular basis, which increases the Landlord's heating bill.
- [16] The Landlords stated that on December 9, 2024, they again spoke to the Tenant about not smoking in the Unit. After their discussion, the Landlords stated that the Tenant blocked the Landlords on her phone, and now they cannot contact her.
- [17] The Landlords stated that the Tenant has two cats in the Unit, but the tenancy agreement states that no pets are allowed without the Landlords' permission. They acknowledged that they had given the Tenant permission to have the cats after she moved into the Unit. The Landlords stated that the Tenant should have asked permission to have the cats before signing the tenancy agreement. They stated that the cats had scratched a door frame, causing damage, and threw up on the stairs, which the Tenant did not clean up.
- [18] The Landlords stated that the Tenant's tub leaked into the Landlords' unit. The Landlords have tried to complete the repairs to the tub and their ceiling, but the Tenant has blocked the Landlords on her cell phone, and the Tenant will not respond to the Landlords about completing further repairs.
- [19] The Landlords stated that on February 6, 2025, they served the Tenant with a warning letter. The warning letter told the Tenant to stop smoking in the Unit immediately, but the Landlords can still smell smoke coming from the Unit. The warning letter also gave the Tenant seven days to clean the Unit and repair the damage. A copy of the warning letter, messages between the parties, and photographs of the Unit were submitted as evidence.
- [20] The Landlords stated that they are willing to extend the vacate date to April 30, 2025, to allow the Tenant more time to find a new place to live.

- [21] The Tenant stated that she had smoked tobacco mixed with marihuana in the Unit, but she was hoping to attend detox in the future. She stated that she blocked the Landlords on her phone because she needed her own space.
- [22] The Tenant stated that the Landlords told her that she could keep the cats in the Unit. She stated that she had put tape on the door frame so the cats no longer damage it. The Tenant stated that the photos of her Unit were taken just after she moved in and that she had not unpacked everything yet. She stated that she thought that the tub repairs had been completed.
- [23] One of the Landlords' reasons for the termination of the tenancy agreement is that the Tenant:
- (i) *has failed to comply with a material term of the tenancy agreement, and*
 - (ii) *has not corrected the situation within a reasonable time after the landlord has given written notice to do so.*
- [24] The Landlords stated that the Tenant is smoking cigarettes and marihuana in the Unit, which is contrary to the tenancy agreement, which states: "*Smoking not permitted inside – outside only.*"
- [25] The Tenant admitted to smoking tobacco mixed with marihuana in the Unit. The Landlords stated that the Tenant continued smoking in the Unit even after being served with a warning letter on February 6, 2025. Therefore, I find that the Landlords have established a valid basis for the termination of the tenancy agreement.
- [26] I find that the Notice is valid due to a breach of clause 61(1)(h) of the Act, and the Application is denied. The Tenant must vacate the Unit by the timeline below.
- [27] I do not find that the Landlords have provided sufficient evidence to establish their other reasons for ending the tenancy.
- [28] There is insufficient follow-up evidence to establish that the Tenant failed to clean or repair the Unit within seven days after receiving the warning letter. The Landlords have not provided sufficient evidence to establish that the Tenant is prohibiting repairs to the Unit other than just blocking the Landlords on her phone.
- [29] There is insufficient evidence establishing that the Tenant leaving her window open has increased the Landlords' heating costs. There is also insufficient evidence that the Tenant gave false information about the rental unit to a prospective tenant, a purchaser viewing the rental unit or another person.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate at **5:00 p.m. on April 30, 2025**. The Tenant 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 31st 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.