

INTRODUCTION

- [1] The Landlord seeks an order requiring the Tenant and all occupants to vacate the Unit for non-payment of rent.

DISPOSITION

- [2] I find that the Tenant and all occupants must vacate the Unit for non-payment of rent.

BACKGROUND

- [3] The Unit is a two-bedroom, one-bathroom apartment in an eight-unit building (the "Residential Property").
- [4] The Tenant and the former landlord of the Residential Property entered into a written, fixed-term tenancy agreement for the Unit for the period of April 1, 2021 to March 31, 2022. Around March 28, 2021 the Tenant paid a \$1,000.00 security deposit.
- [5] On July 28, 2021 the Landlord became the owner of the Residential Property and the tenancy continued.
- [6] At the end of the fixed-term the tenancy agreement continued on a month-to-month basis. Rent of \$1,339.00 is due on the first day of the month.
- [7] On March 4, 2025 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of March 23, 2025 (the "Notice") for non-payment of rent. I note that the effective date is automatically corrected to March 24, 2025 under section 54 of the *Residential Tenancy Act* (or the "Act") to comply with the minimum 20-day notice period under subsection 60(1).
- [8] On April 7, 2025 the Landlord 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, which is the subject of Order LD25-147.
- [9] On April 11, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for April 22, 2025.
- [10] On April 17, 2025 the Rental Office emailed the parties a 13-page evidence package (the "Evidence Package").
- [11] On April 22, 2025 the Landlord and the Landlord's interpreter joined the teleconference hearing. I telephoned the Tenant and left a voicemail message with the teleconference information and the Rental Office's telephone number. The Landlord confirmed that all documents he submitted to the Rental Office were included in the Evidence Package. The hearing was adjourned one hour and I emailed the parties the adjourned hearing time.
- [12] The Landlord and the Landlord's interpreter joined the adjourned teleconference hearing. I telephoned the Tenant but the Tenant did not respond. The hearing proceeded in the Tenant's absence.

ISSUE

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

ANALYSIS

- [13] The Landlord's reason 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.

- [14] The Landlord's evidence establishes that the Tenant owed the Landlord rent in the amount of \$2,278.00 on March 4, 2025, the date the Notice was served. The Tenant did not make any further rent payments after the Notice was served and the rent due has increased to \$3,617.00.

- [15] Therefore, the Notice was 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.

- [16] The Tenant did not serve the Landlord with an application disputing the Notice.

- [17] For these reasons, I find that the Notice is valid and the Application is allowed.

- [18] I find that the Tenant and all occupants must vacate the Unit by the timeline below.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate effective **5:00 p.m. on April 29, 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 22nd day of April, 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 **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.