

INTRODUCTION

- [1] The Landlord seeks an order requiring the Tenant and all occupants to vacate the Unit for non-payment of rent. The Landlord seeks rent owing by the Tenant in the amount of \$1,095.00.

DISPOSITION

- [2] I find that the Notice is invalid and the tenancy agreement remains in full force and effect. The Tenant will pay the Landlord rent for April 2025, in the amount of \$1,095.00, on the terms stated below.

BACKGROUND

- [3] The Unit is a batchelor unit located in a 22-unit building that the Landlord has operated since January 14, 2023.
- [4] The Landlord and the Tenant entered into a written, month-to-month tenancy agreement for the Unit that commenced on February 17, 2025 (the "Tenancy Agreement"). A security deposit of \$1,095.00 was paid. Rent in the amount of \$1,095.00 is due on the first day of the month.
- [5] On March 10, 2025 the Landlord emailed the Tenant a *Form 4(A) Eviction Notice* with an effective date of March 30, 2025 (the "Notice") for non-payment of rent.
- [6] On March 31, 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, for the Sheriff to put the Landlord in possession, and rent owing. The Landlord emailed the Tenant a copy of the Application.
- [7] On April 3, 2025 the Landlord had a copy of the Notice and the Application taped to the Unit's door.
- [8] On April 9, 2025 the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for April 24, 2025 and a copy of the Application. On April 11, 2025 the Landlord had a copy of the notice of hearing taped to the Unit's door.
- [9] On April 23, 2025 the Rental Office emailed the parties a 26-page evidence package (the "Evidence Package" or "EP"). The Landlord had a copy of the Evidence Package taped to the Unit's door.
- [10] On April 24, 2025 the Landlord's representative (the "Representative") and the Tenant participated in a teleconference hearing for determination of the Application.

ISSUES

- A. What date was the Notice served?
- B. Must the Tenant and all occupants vacate the Unit?
- C. Does the Tenant owe rent to the Landlord?

ANALYSIS**A. What date was the Notice served?**

- [11] Based upon the evidence presented, I find that the Notice was not served by email on March 10, 2025. Instead, I find that the Landlord first served the Notice to the Tenant on April 3, 2025.
- [12] At the hearing the Tenant essentially argued that she was not served with the Notice by email.

- [13] Clause 100(1)(d) of the *Residential Tenancy Act* (or the “Act”) provides the requirements for electronic service of documents, stating as follows:

A document that is required or permitted under this Act to be given to or served on a person shall be given or served in one of the following ways:

(d) sending the document electronically where

- (i) it is provided in the same or substantially the same form as the printed document,*
- (ii) the other party has provided an electronic address for receipt of documents, and*
- (iii) it is sent to that electronic address.*

- [14] The Tenancy Agreement provides the Tenant’s contact information, including a telephone number and an email address (the “Email”). However, the Tenancy Agreement does not state that the Email is a valid method for receipt of documents from the Landlord that must be monitored by the Tenant.
- [15] Although the Tenant used the Email for the electronic generation and receipt of the Tenancy Agreement, in this case the evidence does not establish that the parties agreed that the Email would be used on an ongoing basis for the Tenant receiving documents from the Landlord.
- [16] The documentary evidence does not include a history of email correspondence back and forth between the parties upon which I could infer that the Email address was provided for receipt of documents.
- [17] As a result, I find that the March 10, 2025 email to the Tenant with the Notice was not service in accordance with clause 100(1)(d).
- [18] At the hearing the Tenant stated that she has not been accessing the Email account “*for a while.*” The Tenant also stated that she had “*not gone back*” to the Email since shortly after the Tenancy Agreement was signed.
- [19] Therefore, I cannot find that the Tenant was sufficiently served with the Notice under subsection 100(3) because I am not satisfied that the Tenant in fact saw the Notice in her Email account.
- [20] The evidence establishes that the Landlord had an additional copy of the Notice taped to the Unit’s door on April 3, 2025, which the Tenant received the same day. The Tenant stated that this was the first time she had seen the Notice.
- [21] I find that the Landlord first served the Tenant with the Notice on April 3, 2025 by posting it in a conspicuous place on the Unit’s entrance (clause 100(1)(f)).

B. Must the Tenant and all occupants vacate the Unit?

- [22] The Landlord’s reason for terminating the Tenancy Agreement 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.

- [23] At the hearing the parties reviewed the charges and payments in the Landlord’s rent ledger (EP14; the “Rent Ledger”).

- [24] The evidence of both the Landlord and the Tenant at the hearing was that the \$1,565.00 payment on February 28, 2025 was for prorated February 2025 rent of \$470.00 and the \$1,095.00 security deposit. The Rent Ledger shows that the March 31, 2025 payment of \$1,095.00 was applied to March 2025 rent because this document shows a zero-balance owing as of this date.
- [25] I have determined, above, that the Notice was first served on April 3, 2025. At that time there was rent owing for April 2025 but the rent for March 2025 was paid.
- [26] Section 53 of the *Act* states:

In order to be effective, a notice of termination shall be in writing and shall

- (a) be signed and dated by the landlord or tenant giving the notice;*
- (b) give the address of the rental unit;*
- (c) state the effective date of the notice;*
- (d) except for a notice of termination under section 56, state the grounds for ending the tenancy;*
- (e) be given to the other party in accordance with section 100; and*
- (f) when given by a landlord, be in the approved form.*

- [27] I find that the Notice cannot be effective because the Notice does not adequately state the grounds for ending the Tenancy Agreement (subsection 53(d)). The Notice provides that March 2025 rent was unpaid when this rent was in fact paid as of the date of service on April 3, 2025.
- [28] As a result, I find that the Notice is invalid due to non-compliance with section 53. The Tenancy Agreement remains in full force and effect.

C. Does the Tenant owe rent to the Landlord?

- [29] Based upon the evidence presented, I am satisfied that the Rent Ledger accurately reflects the charges and payments for the Unit. Rent for April 2025 is currently owing.
- [30] The Tenant must immediately pay the Landlord April 2025 rent, in the amount of \$1,095.00.

Tenancy Agreement Content

- [31] On April 8, 2023 the *Act* replaced the former rental legislation. Landlords are now required to prepare written tenancy agreements containing the information specified in subsection 11(2), which states:

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.

[32] I also note that, with regard to the end of a tenancy, landlords must comply with Part 4 of the *Act*. In particular, subsection 51(1) states:

A tenancy shall be terminated only in accordance with this Act.

[33] Landlords cannot create grounds for ending a tenancy that conflict with the *Act*.

[34] The standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office's website.

CONCLUSION

[35] For the reasons above, I find that the Notice is invalid. The Tenancy Agreement remains in full force and effect.

[36] The Tenant must immediately pay the Landlord April 2025 rent, in the amount of \$1,095.00.

IT IS THEREFORE ORDERED THAT

1. The Tenancy Agreement remains in full force and effect.
2. The Tenant must immediately pay the Landlord April 2025 rent, in the amount of \$1,095.00.

DATED at Charlottetown, Prince Edward Island, this 25th 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 **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.