

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office (the “Rental Office”) under the *Residential Tenancy Act* (the “Act”).
- [2] The Landlord seeks an order requiring the Tenant and all occupants to vacate the Unit for non-payment of rent.

DISPOSITION

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

BACKGROUND

- [4] The Unit is a two-bedroom, two-bathroom apartment in a 30-unit building that the Landlord has operated for approximately two years.
- [5] The parties entered into a written, fixed-term tenancy agreement for the Unit from May 1, 2023 to April 30, 2024, which converted to a month-to-month agreement. Rent of \$2,160.00 is due on the first day of the month. A security deposit of \$2,160.00 was paid around April 1, 2023.
- [6] On or about April 22, 2025 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of May 12, 2025 (the “Notice”) for non-payment of April rent, in the amount of \$2,160.00.
- [7] On May 13, 2025 the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the “Application”) 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 Application also seeks rent owing, which is the subject of Order LD25-191. The Landlord served the Tenant with a copy of the Application.
- [8] On May 16, 2025 the Rental Office emailed the Landlord notice of a teleconference hearing scheduled for June 3, 2025. On May 17, 2025 the Landlord provided the Rental Office with evidence showing that the notice of hearing was taped to the Tenant’s door.
- [9] The Landlord provided some evidence to the Rental Office by the May 28, 2025 evidence deadline. The Tenant did not submit evidence. The Landlord also provided some late evidence.
- [10] On June 3, 2025 the Landlord’s representative joined the teleconference hearing for determination of the Application. I telephoned the Tenant but the Tenant did not answer the call and I was unable to leave a voicemail message. Ten minutes after the scheduled hearing time the hearing proceeded in the Tenant’s absence.

ISSUE

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

ANALYSIS

- [11] 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.

- [12] The Tenant was responsible for paying April rent to the Landlord by April 1, 2025. The evidence establishes that the rent was not paid on time and \$2,160.00 was owed as of April 22, 2025, the date the Notice was served.
- [13] The rent owing was not paid within ten days. 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.*
- [14] The Tenant currently owes the Landlord April, May and June 2025 rent.
- [15] On or about May 8, 2025 the Tenant provided the Landlord with a cheque for \$2,160.00 but there were non-sufficient funds when the cheque was processed.
- [16] The Tenant did not file an application with the Rental Office disputing the Notice.
- [17] The evidence does not establish that the Notice was waived, the tenancy was reinstated or a new tenancy was created under section 74 of the *Act*.
- [18] For these reasons, I find that the Notice is valid and the Application is allowed.
- [19] 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 June 13, 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 3rd day of June, 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.