

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 the main floor of a house that the Landlord owns.
- [5] The parties entered into an oral, month-to-month tenancy agreement for the Unit beginning November 1, 2024, but the Tenant did not move in until November 5, 2024. Rent of \$1,900.00 is due on the first day of the month. A security deposit of \$1,900.00 was paid by December 2, 2024.
- [6] On April 10, 2025, the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of April 30, 2025 (the "Notice") for non-payment of April's rent, of \$1,900.00.
- [7] On May 1, 2025, the Landlord filed a *Form 2(B) Landlord Application to Determine Dispute* (the "Landlord 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 Landlord Application also seeks rent owing, which is the subject of Order LD25-203.
- [8] On May 8, 2025, the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Tenant Application") with the Rental Office disputing the Notice.
- [9] On May 14, 2025, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for May 29, 2025.
- [10] On May 23, 2025, the Rental Office shared a 56-page PDF and two videos with the parties (the "Evidence Package") through Titan File.
- [11] On May 29, 2025, the Rental Office emailed the parties notice of a rescheduled teleconference hearing for June 3, 2025.
- [12] On June 3, 2025, the Landlord, the Tenant, and the Tenant's witness participated in a teleconference hearing. The parties stated they received a copy of the Evidence Package and that all submitted evidence was included.

ISSUE

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

ANALYSIS

- [13] The Landlord stated that the Tenant was responsible for paying April's rent by April 1, 2025. He stated that the rent was not paid on time, and \$1,900.00 was owed as of April 10, 2025, the date the Notice was served. The Landlord stated that the Tenant currently owes the Landlord April, May and June 2025 rent, totalling \$5,700.00.

- [14] The Landlord stated that he only agreed to use the security deposit to pay April's rent if the Tenant moved out immediately. He stated that he never agreed to use the security deposit to pay April's rent and to allow the Tenant to remain in the Unit. The Landlord submitted text messages between the parties as evidence.
- [15] The Tenant stated that she is withholding rent because the Landlord has been slow to complete repairs to the Unit and has not completed other repairs. She stated that she had to pay for laundry as the dryer did not work, and she and the Tenant's witness had to remove a fallen tree from the property. She stated that the Landlord agreed to use the security deposit for April's rent, so April's rent should be considered paid.
- [16] 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.
- [17] Based on the evidence, I find that although the Landlord agreed to use the security deposit to pay April's rent, it would only be if the Tenant moved out immediately, which did not occur.
- [18] The evidence establishes that the rent owing was not paid within ten days. Furthermore, the Tenant Application was not filed within ten days. Therefore, the Notice was not invalidated under clauses 60(4)(a) or (b) of the Act, which state:
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.
(b) dispute the notice of termination by making an application to the Director under section 75.
- [19] Although the Tenant stated that she was withholding rent due to required repairs, subsection 19(1) of the Act states:
A tenant shall pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has an express right under this Act to deduct or withhold all or a portion of the rent.
- [20] For these reasons, I find that the Notice is valid.
- [21] The Landlord Application is allowed, and the Tenant Application is denied.
- [22] The Tenant and all occupants must vacate the Unit by the timeline below.
- [23] The Landlord stated that he would extend the vacate date to June 16, 2025.

Form of Tenancy Agreement

- [24] The parties did not sign a written tenancy agreement, which is required under subsection 11(1) of the Act. The standard form tenancy agreement (*Form 1 – Standard Form of Tenancy Agreement*) is available on the Rental Office's website. The Landlord must ensure that any future tenancy agreements are in writing and contain the information required by the Act.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate effective **5:00 p.m. on June 16, 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 6th day of June, 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.