

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office ("Rental Office") under the *Residential Tenancy Act* ("Act").
- [2] The Tenant filed an application disputing an eviction notice served by the Landlord for non-payment of the security deposit, having an unreasonable number of occupants, disturbing and endangering others, engaging in unlawful activity, and causing damage to the Unit.

DISPOSITION

- [3] The tenancy is terminated effective 5:00 p.m. on June 16, 2025. The Tenant and all occupants must vacate the Unit by this time and date.

BACKGROUND

- [4] The Unit is a one-bedroom and one-bathroom apartment in a four-unit apartment building ("Residential Property").
- [5] The Tenant occupied the Unit with a family member who was the Landlord's former tenant. At the end of May 2024, the former tenant vacated the Unit.
- [6] On June 1, 2024 the Tenant took over the Unit with the Landlord's permission and the tenancy agreement was assigned. The tenancy agreement is an oral month-to-month agreement. Rent is \$775.00 due on the first day of the month. A \$400.00 security deposit was requested but not paid.
- [7] On April 29, 2025 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* dated "April 31, 2025" with an effective date of "May 31, 2025" for non-payment of the security deposit, having an unreasonable number of occupants, disturbing and endangering others, engaging in unlawful activity, and causing damage to the Unit ("Notice").
- [8] The Notice is an out dated version of the *Form 4(A) Eviction Notice*.
- [9] On May 9, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* ("Application") with the Rental Office disputing the Notice.
- [10] On May 16, 2025 the Rental Office mailed the parties notice of a teleconference hearing scheduled for June 3, 2025.
- [11] On May 21, 2025 the Rental Office emailed the Tenant an updated notice of a teleconference hearing scheduled for June 3, 2025. The Landlord picked-up a copy at the Rental Office.
- [12] On May 27, 2025 the Rental Office emailed the Tenant a 7-page evidence package.
- [13] On May 28, 2025 the Tenant submitted a 2-page email response, which was included in the evidence.
- [14] On May 29, 2025 the Landlord picked-up a copy of the 7-page evidence package and the Tenant's 2-page email response.
- [15] On June 3, 2025 the Landlord and the Landlord's witness ("LW") joined the teleconference hearing for determination of the Application. The Tenant did not join the hearing. At the beginning of the hearing I telephoned the Tenant and left a voicemail message with the teleconference instructions and the Rental Office's telephone number. I waited ten minutes and then adjourned the hearing.

- [16] On June 3, 2025 the Rental Office emailed the Tenant an updated notice of a teleconference hearing scheduled for June 6, 2025. Rental Office staff telephoned the Landlord and the Tenant to inform them of the new time and date for the teleconference hearing.
- [17] On June 5, 2025 the Rental Office emailed the Tenant a two-page document, which the Landlord submitted as additional evidence. Rental Office staff telephoned the Tenant and informed him that the additional evidence was emailed to him. The Tenant stated that he had additional photographs to submit into evidence, however, the Tenant did not submit any additional evidence.
- [18] On June 6, 2025 the Landlord and LW joined the teleconference hearing for determination of the Application. The Tenant did not join the hearing. At the beginning of the hearing I telephoned the Tenant and left a voicemail message with the teleconference instructions and the Rental Office's telephone number. I waited ten minutes before moving forward with the hearing in the Tenant's absence.

ISSUE

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

ANALYSIS & FINDINGS

- [19] The Landlord has the onus to prove, on the civil standard of the balance of probabilities, a valid reason to end the tenancy.
- [20] In Order LR24-64, the Island Regulatory and Appeals Commission ("Commission") made the following comment regarding a landlord ending a tenancy (paragraph 21):

"The termination of a tenancy is a serious matter and accordingly a Landlord seeking to evict a tenant must put forward compelling evidence..."

- [21] In this case, the Landlord selected five reasons for ending the tenancy under clauses 61(1)(a), (c), (d), (e) and (f) of the Act, which state:

A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

- (a) the tenant does not pay the security deposit within 10 days of the date it is required to be paid under the tenancy agreement;*
- (c) there is an unreasonable number of occupants in the tenant's rental unit;*
- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,*
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or*
 - (iii) put the landlord's property at significant risk;**
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - (i) has caused or is likely to cause damage to the landlord's property,*
 - (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
 - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of the landlord or another occupant;**
- (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.*

- [22] For the reasons below, I find that the Notice is valid, the Application is denied and the tenancy is terminated.

Landlord's Evidence

Non-payment of the Security Deposit

- [23] The Landlord stated that he requested that the Tenant pay a \$400.00 security deposit after the Tenant took over the tenancy agreement in June 2024. The Landlord stated that every time he asked the Tenant about payment, the Tenant gave an excuse.
- [24] The Landlord stated that he did not give the Tenant an eviction notice in the Summer of 2024 for non-payment of the security deposit because he did not have the time and wanted to give the Tenant leniency.

Number of Occupants, Disturbing Others, Unlawful Activity and Damage

- [25] The Landlord stated that the remaining reasons for eviction are the more serious reasons for the eviction. The Landlord stated that he received numerous complaints from other tenants and neighbours regarding the Tenant and the Tenant's guests.
- [26] The Landlord stated that the Tenant allows a lot of guests into the Unit and the Residential Property. The Landlord stated that City Police and EMS are regularly called to the Residential Property. The Landlord stated that he believes drug use and unlawful activity is happening at the Residential Property.
- [27] The Landlord stated that the Unit's window is broken. The Landlord stated that he has not inspected the Unit and he does not know the full amount of damage in the Unit.
- [28] The Landlord submitted into evidence a letter signed by ten neighbours and occupants of the Residential Property. The letter details numerous issues and complaints against the Tenant and the Tenant's guests.
- [29] LW stated that she is a neighbour and lives beside the Residential Property.
- [30] LW stated that she agrees with the contents of the letter, although she did not sign the letter.
- [31] LW stated that she witnessed the Landlord hand-deliver the Notice to the Tenant on April 29, 2025.
- [32] LW stated that the issues started around November 2024. LW stated that there is consistent foot traffic, drug activity and fighting at the Residential Property. LW stated that City Police and EMS are regularly at the Residential Property. LW stated that unknown individuals have knocked on her door asking for the Tenant and/or friends of the Tenant.
- [33] LW stated that she witnessed the Tenant being arrested on one occasion. LW stated that she also witnessed the Landlord tell the Tenant to not allow a specific person back at the Unit. However, LW stated that she has seen this specific person numerous times at the Unit since that conversation with the Landlord.
- [34] LW stated that there is a lot of garbage in the Residential Property's backyard.
- [35] LW stated that this continuous behaviour has disrupted her peace and quiet enjoyment.

Tenant's Evidence

- [36] The Tenant did not participate at the hearing to provide evidence under affirmation. However, the Tenant did submit an email to the Rental Office. In summary, this email alleges numerous maintenance issues with the Unit and complaints about the Landlord entering the Unit without sufficient notice.
- [37] Regarding the reasons on the Notice, the Tenant's email response implies that he has not permitted people into the Residential Property and that he is being wrongly blamed for the City Police and EMS presence.

Determination**The Notice**

- [38] The Notice is an outdated version of the *Form 4(A) Eviction Notice*.
- [39] In Order LR24-28, the Commission stated (paragraph 22):

"The standard wording in the Eviction Notice used by the Landlord in this case also does not state the procedure the Tenants would need to follow to dispute the Eviction Notice. The standard wording only states: "Tenants have ten (10) days to dispute this Eviction Notice." The form does not have a section for the particulars of termination. Therefore, following Order LR23-79, the Commission will consider whether there are sufficient grounds were present to justify eviction in accordance with the Residential Tenancy Act in the present case."

- [40] It appears that the Commission does not find outdated versions of the eviction notice to be fatal. Rather, the Commission rejected a landlord's reliance on the deeming provisions of the *Act* (where they apply). Instead, the Commission has determined the eviction notice on its merits.
- [41] In this case, I will also determine the Notice on its merits.
- [42] I further note that the Notice has the wrong date. The Landlord stated that despite the Notice being served on April 29, 2025, the correct date on the Notice was "April 30, 2025." I amend the Notice under clause 85(1)(l) of the *Act*.

Non-payment of the Security Deposit

- [43] I find that the Tenant took over the oral, monthly tenancy agreement from the former tenant, who lived at the Unit for a long period of time. The Tenant was assigned the tenancy agreement.
- [44] Subsection 30(5) of the *Act* outlines the consequences of assignment. Effectively, the tenancy agreement continues with the same terms and conditions.
- [45] However, read together with subsection 40(1) of the *Act*, it appears that the landlord would return a security deposit of the former tenant and request a new security deposit from the existing tenant.
- [46] In this case, the former tenant did not pay a security deposit. I find that a security deposit was not a term or condition of the tenancy agreement. Therefore, I find that there is insufficient evidence to terminate the tenancy for this reason.

Number of Occupants, Disturbing Others, Unlawful Activity and Damage

- [47] I find that the Landlord has provided compelling and objective evidence to establish a valid reason for terminating the tenancy.

- [48] Particularly, I find that the signed letter submitted into evidence, corroborated by the direct evidence provided by LW, establishes that the Tenant's behaviour and/or the Tenant's guests behaviour have disturbed other occupants. I note that LW was able to provide clear details such as dates, times and details around incidents which she witnessed. LW's evidence was credible under questioning.
- [49] Further, I find that the Tenant did not participate at the hearing to dispute the Landlord and/or LW's evidence. As a result, the Tenant was not able to answer questions under affirmation and provide his own evidence.
- [50] Therefore, I find that the Notice is valid, the Application is denied and the tenancy is terminated by the timeline below.
- [51] I note that the Landlord selected other reasons for ending the tenancy on the Notice. However, as I have found valid reason for ending the tenancy, I will not determine the other reasons.

IT IS THEREFORE ORDERED THAT

1. The tenancy agreement is terminated 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 9th day of June, 2025.

(sgd.) Cody Burke

Cody Burke
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.