

INTRODUCTION

- [1] This decision determines two applications 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, including the Subtenant, to vacate the Unit due to non-payment of rent.

DISPOSITION

- [3] I find that the Tenant and all occupants, including the Subtenant, must vacate the Unit due to non-payment of rent.

BACKGROUND

- [4] The Unit is an apartment in a multi-unit building (the “Residential Property”).
- [5] The Landlord and the Tenant entered into an oral month-to-month tenancy agreement for the Unit, beginning May 13, 2025. A security deposit of \$1,800.00 was paid on June 1, 2025. Rent of \$1,800.00 is due on the first day of each month.
- [6] The Tenant and the Subtenant entered into a written fixed-term subletting agreement for the Unit, from June 1, 2025, to November 30, 2025. A security deposit of \$1,800.00 was paid at the beginning of the tenancy. Rent of \$1,800.00 is due on the first day of each month. The Subtenant moved into the Unit on May 13, 2025, and paid \$900.00 in rent for May 2025.
- [7] On July 10, 2025, the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of July 30, 2025 (the “Notice”) for non-payment of rent of \$1,800.00 for July 2025.
- [8] On July 15, 2025, the Subtenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the “Subtenant Application”) with the Rental Office seeking to dispute the Notice.
- [9] On July 23, 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 determined in this Order. The Landlord Application also seeks to keep the security deposit and rent owing, which is determined in Order LD25-310.
- [10] On August 1, 2025, the Rental Office emailed the parties notice of a teleconference hearing scheduled for August 13, 2025.
- [11] On August 7, 2025, the Rental Office emailed a 59-page PDF evidence package to the parties.
- [12] On August 13, 2025, the Landlord’s representative (the “Representative”), the Subtenant, and the Subtenant’s witness called into the teleconference hearing. The Tenant messaged the Rental Office prior to the hearing stating that he would not be participating in the hearing.
- [13] The parties at the hearing confirmed receipt of the evidence package and stated that all evidence they submitted to the Rental Office was included.

ISSUES

- A. Can the Subtenant validly dispute the Notice served by the Landlord to the Tenant?
- B. Must the Tenant and all occupants, including the Subtenant, vacate the Unit due to non-payment of rent?

ANALYSIS**A. Can the Subtenant validly dispute the Notice served by the Landlord to the Tenant?**

- [14] The evidence establishes that the Landlord and Tenant entered into an oral tenancy agreement for possession of the Unit beginning.
- [15] The evidence also establishes that with the Landlord's permission, the Tenant and the Subtenant entered into a written subletting agreement for possession of the Unit.
- [16] A "tenancy agreement" is defined in the Act as "*an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and the provision of services and facilities.*"
- [17] In this case, I find that there is insufficient evidence to establish that the Landlord and Subtenant had entered into an agreement, which could be considered a "tenancy agreement."
- [18] As the Subtenant only has a subletting agreement with the Tenant, there is no landlord-tenant relationship between the Landlord and Subtenant. As the Notice was served to the Tenant for non-payment of rent, the Subtenant is unable to validly file an application against the Landlord disputing the Notice.
- [19] Furthermore, there was no evidence presented at the hearing to establish that the Subtenant was acting on behalf of the Tenant with regard to the Subtenant Application to dispute the Notice.
- [20] Therefore, I find that the Subtenant cannot validly dispute the Notice. The Subtenant Application is denied.

B. Must the Tenant and all occupants, including the Subtenant, vacate the Unit due to non-payment of rent?

- [21] The Subtenant stated that he rented the Unit for employees of his business. He stated that the Tenant gave the Subtenant access to the Unit on May 13, 2025, and the Subtenant paid the Tenant \$900.00 in rent for May 2025 and also paid an \$1,800.00 security deposit.
- [22] The Subtenant stated that the Tenant offered the Subtenant a rate of \$7,200.00 for a six-month fixed-term from June to November 2025. The Subtenant agreed, and on June 11, 2025, the Subtenant paid the Tenant \$7,200.00. The Subtenant has not had any communication from the Tenant since that time.
- [23] The Tenant submitted a statement as evidence in which he stated that he paid the Representative \$7,000.00 by e-Transfer on June 16 and 17, 2025, and paid \$200.00 in cash on June 23, 2025. The Tenant submitted copies of the e-Transfers as evidence.
- [24] The Representative stated that the Notice was served on July 10, 2025, for non-payment of rent for July 2025. The Tenant did not pay rent for August 2025. The Representative has not received any recent communication from Tenant.
- [25] The Representative disputed that the Tenant paid her \$7,200.00 for this Unit. She stated that the Tenant e-transferred her \$7,000.00, which was money owed for three units rented from the Landlord and subsequently sublet. The Representative stated that \$3,600.00 of the \$7,000.00 was rent for June 2025 and the security deposit for the Unit. The rest of the money was for rent and security deposits for two other units. She disputed that the Tenant paid her \$200.00 in cash.

[26] The Representative stated that she would not make an agreement to accept rent for multiple months and would only ask for a security deposit and one month's rent at the beginning of a tenancy. The Representative stated that the Tenant made the six-month subletting agreement and received the payments without her knowledge.

[27] The Landlord's reason in the Notice 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.

[28] I find that the evidence establishes, on a balance of probabilities, that the Tenant did not pay the outstanding rent for July 2025 within ten days of the Notice being served, and the rent is still outstanding as of the hearing date.

[29] Therefore, the Notice was not invalidated under subsection 60(4) 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; or
(b) dispute the notice of termination by making an application to the Director under section 75.

[30] Furthermore, the Tenant did not file an application disputing the Notice.

[31] 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.

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

[33] The Tenant and all occupants, including the Subtenant, must vacate the Unit by the timeline below.

[34] By operation of law, once a tenancy agreement ends, so does a subletting agreement between a subtenant and a tenant. The Subtenant must move out of the Unit because the Tenant failed to make the required rent payments to the Landlord.

[35] The evidence establishes that the Tenant owes the Landlord rent for July 2025, (\$1,800.00) and from August 1 - 26, 2025, (\$1,509.68), totalling \$3,309.68, as determined in Order LD25-310.

IT IS THEREFORE ORDERED THAT

1. The tenancy agreement will terminate effective August 26, 2025, at 5:00 p.m.
2. The Tenant and all occupants, including the Subtenant, must vacate the Unit by this date and time.
3. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Act.
4. The Subtenant Application is denied.

DATED at Charlottetown, Prince Edward Island, this 19th day of August, 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.