

## INTRODUCTION

- [1] This decision determines an application filed by the Landlord with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (the "Act").
- [2] The Landlord seeks an Order for vacant possession of the Unit and for the Sheriff to put the Landlord in possession.

## DISPOSITION

- [3] The Tenant and all occupants must vacate the Unit by the timeline below.

## BACKGROUND

- [4] The Unit is an apartment in a converted hotel owned by the Landlord (the "Residential Property").
- [5] The parties signed a written, fixed-term tenancy agreement for the Unit, commencing September 18, 2025, and ending September 18, 2026. Rent in the amount of \$1,110.00 is due on the first day of the month. A \$500.00 security deposit was paid at the beginning of the tenancy.
- [6] On November 27, 2025, the Landlord's representative (the "Landlord Representative") served the Tenant with a first *Form 4(A) Eviction Notice* effective December 27, 2025, for disturbing and endangering others or putting the Landlord's property at significant risk (the "First Notice"). The Landlord Representative stated that the First Notice was served by placing it under the Unit's door.
- [7] On December 9, 2025, the Landlord Representative filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office seeking rent owing, vacant possession of the Unit and for the Sheriff to put the Landlord in possession (the "First Application"). The Landlord Representative stated she served the First Application by placing it under the Unit's door.
- [8] On December 29, 2025, the Landlord Representative served the Tenant with a second *Form 4(A) Eviction Notice*, effective December 31, 2025, for disturbing and endangering others or putting the Landlord's property at significant risk (the "Second Notice"). The Landlord Representative stated that the Second Notice was served to the Tenant in person.
- [9] The particulars of termination stated "*Repeated smoking cigarettes and week in unit all the time. Had several noise complaints. Tenant has been spoken to many times on both issues. Disruption to tenants and [unknown] complaints.*"
- [10] The earliest vacate date for the Second Notice is January 31, 2026, because of the minimum notice period required by subsection 61(3) of the Act. For this reason, the Second Notice's vacate date is automatically corrected to January 31, 2026, under section 54.
- [11] On January 2, 2026, the Landlord Representative served the Tenant with a third *Form 4(A) Eviction Notice*, with no vacate date stated, for failing to pay rent of \$2,200.00, for repeatedly late rent payments, and for disturbing and endangering others or putting the Landlord's property at significant risk (the "Third Notice"). The Landlord Representative stated she served the Third Notice by posting it to the Unit's door.
- [12] On January 2, 2026, the Landlord Representative filed an amended *Form 2(B) Landlord Application to Determine Dispute* (the "Amended 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 decision. The Landlord Representative stated she served the Amended Application by posting it to the Unit's door.
- [13] The Landlord also seeks an Order for rent owing, which is determined in Order LD26-041.

- [14] On January 12, 2026, the Rental Office emailed the parties notice of a teleconference hearing scheduled for January 29, 2026.
- [15] On January 20, 2026, the Rental Office emailed the parties notice of a rescheduled teleconference hearing, at the Tenant's request, for January 28, 2026.
- [16] On January 20, 2026, the Rental Office emailed the parties a 44-page PDF evidence package and eight audio files.
- [17] On January 28, 2026, the Landlord Representative and the Tenant's representative (the "Tenant Representative") participated in a teleconference hearing. The parties confirmed receipt of the evidence package and audio files, and the Landlord Representative confirmed that all evidence submitted to the Rental Office was included. The Tenant did not submit any documents or evidence to the Rental Office.

## **ISSUE**

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

## **EVIDENCE**

### **Landlord's evidence and submissions**

- [18] The Landlord Representative stated that she served the First Notice on November 27, 2025, by placing it under the Unit's door. She stated that the Tenant called the Landlord Representative on December 15, 2025, and left a voicemail acknowledging receipt of the First Notice. A copy of the voicemail was submitted as evidence.
- [19] The Landlord Representative stated she served the Second Notice on December 29, 2025, because she realized the vacate date should have been December 31, 2025, rather than December 27, 2025. She stated that she served it in person to the Tenant. She stated that a photograph in evidence shows the Tenant holding the Second Notice, and that the Landlord Representative took the photograph.
- [20] The Landlord Representative stated that rent for December 2025 and January 2026 had not been paid, totalling \$2,200.00, and she served the Third Notice as a result. The Landlord Representative disputed the Tenant Representative's testimony that the Tenant offered the Landlord Representative \$1,500.00 on December 31, 2025, and that the Landlord Representative declined to accept it.
- [21] The Landlord Representative stated she has received multiple complaints regarding the Tenant making excessive noise and disturbances. There have been repeated complaints of the Tenant smoking in the Unit. The Tenant has failed to comply with requests and agreements made with building management regarding noise and smoking. There has been disruptive behaviour at the Residential Property involving the Tenant's guests.
- [22] The Landlord Representative stated that she has received several complaints of the smell of cigarette and marijuana smoke coming from the Unit. She stated that she had addressed this issue with the Tenant several times, but the Tenant denied that the smell was coming from the Unit. She stated that smoking in the Unit is a fire hazard.
- [23] The Landlord Representative stated that on October 7, 2025, she had received a tenant complaint about noise coming from the Unit. The Landlord Representative addressed the complaint with the Tenant, and the Tenant messaged the Landlord Representative, apologizing for the noise. A copy of the message was submitted as evidence.

- [24] The Landlord Representative stated that on November 29, 2025, some of the Tenant's guests were involved in a loud altercation and were swearing in the parking lot. The Landlord Representative stated that she went to the parking lot and that the Tenant's guests were asked to leave the property.

#### **Tenant's evidence and submissions**

- [25] The Tenant Representative stated that the Tenant did not file an application to dispute the eviction notices. The Tenant Representative stated that the First Notice was not properly served, as it was placed under the Unit's door.
- [26] The Tenant Representative stated that she was not present when the Second Notice was served, but the Tenant told her it was not served until December 31, 2025. The Tenant Representative agreed that the Landlord Representative's photo in evidence depicted the Tenant holding a copy of the Second Notice.
- [27] The Tenant Representative stated that rent for December 2025 and January 2026 has not been paid. She stated that fraudulent activity was detected on the Tenant's bank account, and the Tenant has been having difficulty accessing her funds. She stated that on December 31, 2025, the Tenant offered to pay the Landlord Representative \$1,500.00, but the Landlord Representative refused payment.
- [28] The Tenant Representative stated that the Tenant does not smoke marihuana or cigarettes and disputed that there was a smell of smoke coming from the Unit. The Tenant Representative disputed that the Tenant has been disturbing other tenants. The Tenant Representative stated that the argument in the parking lot involved two people visiting the Tenant, and that the Tenant did not cause a disturbance.

#### **ANALYSIS**

- [29] Regarding the First Notice and the First Application, the Landlord Representative stated that she served them to the Tenant by placing them under the Unit's door. Section 100 of the Act sets out the permitted ways a party may serve documents on another party. I note that section 100 does not list placing documents under a Unit's door as a permitted method of service.
- [30] Despite the Landlord Representative stating that the Tenant left a voicemail indicating she had received the First Notice. However, I find that the voicemails in evidence are not date- or time-stamped, and I have insufficient evidence to establish when they were sent or received. As such, I find that the First Notice and First Application are invalid.
- [31] Regarding the Third Notice, I find that the Landlord Representative failed to state the effective vacate date. I note that clause 53(c) of the Act states that an eviction notice must "*state the effective date of the notice.*" Because the Third Notice did not specify an effective vacate date, I find it is invalid.
- [32] Regarding the Second Notice and the Amended Application, I find that the evidence establishes that the documents were properly served in accordance with section 100.
- [33] The parties disputed whether the Second Notice was served to the Tenant on December 29, 2025, or on December 31, 2025. I accept the Landlord Representative's evidence that the Second Notice was served to the Tenant on December 29, 2025. I come to this conclusion because the Landlord Representative provided sworn testimony affirming that she personally served the Second Notice on December 29, 2025, and that she took a photograph of the Tenant holding it.

- [34] Despite the Tenant Representative stating that the Second Notice was not served until December 31, 2025, I find that the Tenant Representative provided insufficient evidence to establish that date as the service date. The Tenant Representative stated that she was not present when the Second Notice was served and was only relaying what the Tenant had told her. However, the Tenant was not present at the hearing to be questioned regarding the service date.
- [35] I note that both service dates would end the tenancy on January 31, 2026, due to the minimum notice period required under subsection 61(3) of the Act. As noted above, the Second Notice's vacate date is automatically corrected to January 31, 2026, under section 54.
- [36] For the reasons below, I find that the Tenant is deemed to have accepted the Second Notice and must vacate the Unit.
- [37] The Landlord seeks to end the tenancy under clause 61(1)(d) of the Act, which states:
- A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:*
- (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.*
- [38] The Landlord Representative provided evidence alleging that the Tenant, or a person permitted on the Residential Property by the Tenant, has breached clause 61(1)(d) of the Act. The Landlord Representative provided testimony and evidence regarding the allegations.
- [39] Subsections 61(5) and (6) of the Act state:
- (5) A tenant may dispute a notice of termination under this section by making an application to the Director under section 75 within 10 days after the date the tenant receives the notice.*
- (6) Where a tenant who has received a notice of termination under this section does not make an application to the Director in accordance with subsection (5), the tenant*
- (a) is deemed to have accepted that the tenancy ends on the effective date of the notice of termination; and*
- (b) shall vacate the rental unit by that date.*
- [40] I find that the evidence establishes the Landlord Representative served the Tenant with the Second Notice on December 29, 2025, effective January 31, 2026. The evidence presented does not establish that the Tenant filed an application with the Rental Office disputing the Second Notice.
- [41] The evidence does not establish that the Second Notice was waived, the tenancy was reinstated, or a new tenancy was created under section 74 of the Act. For these reasons, I find that the Second Notice is valid and the Amended Application is allowed.
- [42] As a result, I find that the Tenant is deemed to have accepted the Second Notice under subsection 61(6) and the tenancy ends by operation of law. I do not have the authority to waive the operation of this deeming provision. I make no finding on whether the Landlord's evidence supports termination of the tenancy because the deeming provision applies.

[43] I find that the Tenant and all occupants must vacate the Unit by the timeline below, and the Amended Application is allowed.

**IT IS THEREFORE ORDERED THAT**

1. The tenancy between the parties will terminate effective February 9, 2026, at 5:00 p.m.
2. The Tenant and all occupants 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.

**DATED** at Charlottetown, Prince Edward Island, this 2nd day of February, 2026.

(sgd.) Mitch King

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**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.