

INTRODUCTION

- [1] This decision addresses an application that the Tenant filed with the Residential Tenancy Office (the “Rental Office”) under the *Residential Tenancy Act*, cap. R-13.11 (the “Act”).
- [2] The Landlords served an eviction notice to the Tenant for non-payment of rent and repeatedly late rent payments.
- [3] The Tenant disputed the eviction notice.

BACKGROUND

- [4] The Unit is a two-bedroom, one-bathroom rental unit that is part of a side-by-side duplex building that the Landlords own.
- [5] On March 25, 2020 the parties entered into a written, fixed-term tenancy agreement. The Tenant paid the Landlords a \$1,000.00 security deposit.
- [6] On April 1, 2020 the Tenant moved into the Unit.
- [7] On March 8, 2026 the parties signed a renewed one-year-fixed-term tenancy agreement. Rent in the amount of \$1,453.50 is due on the last day of the previous month.
- [8] On August 12, 2026 the Landlords issued a *Form 4(A) Eviction Notice* with a vacate date of September 1, 2026 for non-payment of rent, in the amount of \$1,453.50 and repeatedly late rent payments (the “Notice”).
- [9] On August 17, 2026 the Tenant e-mailed the Landlords and the Rental Office a *Form 2(A) Tenant Application to Determine Dispute* disputing the Notice (the “Application”).
- [10] On August 25, 2026 the Rental Office sent the parties notice of a tele-hearing scheduled for September 15, 2026.
- [11] On September 2, 2026 the Rental Office sent the parties a 15-page PDF evidence package.
- [12] On September 15, 2026 the Tenant and one of the Landlords (the “Landlord”), representing the Landlords, participated in the hearing. The parties confirmed that they received the evidence package and that they were not aware of anything missing that had been previously submitted to the Rental Office for this dispute.

DISPOSITION

- [13] The Notice is invalid and the Application is allowed. The tenancy will continue and the Tenant may continue living in the Unit.

ISSUE

- A. Must the Tenant vacate the Unit because of the Notice?

EVIDENCE & ANALYSIS

- [14] In eviction disputes, landlords have the onus to prove that there is a valid reason to end the tenancy on the civil standard of a balance of probabilities.

- [15] The Landlords' reasons for terminating the tenancy in the Notice are under clauses 60(1) and 61(1)(b) of the Act, which state:

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.

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

(b) the tenant is repeatedly late in paying rent;

- [16] In Order LR26-16 the Island Regulatory and Appeals Commission (the "Commission") made the following comments regarding a landlord ending a tenancy:

"49. The Commission approaches the termination of a tenancy as a serious matter, given the significant impact an eviction has on a tenant's housing security. As noted in prior decisions, a landlord seeking to end a tenancy must provide clear, cogent, and compelling evidence to justify termination.

*50. Therefore, the burden rests on the Landlord to establish, on a balance of probabilities, that one or more of the grounds for termination under section 61(1) of the Act have been met. This requires demonstrating that it is more likely than not that the alleged conduct occurred and that it meets the statutory threshold for eviction."*¹

- [17] For the reasons below, I find that the Landlords have not established a valid reason in the Notice for ending the tenancy. Therefore, the Notice is invalid.

Non-payment of rent

- [18] The parties agreed that on August 14, 2026 the Tenant e-Transferred the Landlords \$1,453.50 for August 2026's rent.

- [19] Clause 60(4)(a) and (b) of the Act 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.

- [20] The evidence establishes that the non-payment of rent ground stated in the Notice is no longer valid by operation of law. The Landlords served the Tenant with the Notice on August 12, 2026 for non-payment of rent and the Tenant paid the outstanding rent within ten days of receiving the Notice.

- [21] The parties agreed that, as of the hearing date, the Tenant had no outstanding rental arrears because the Tenant paid the September 2026 rent to the Landlords on August 31, 2026.

Repeatedly late rent payments

- [22] The Landlord stated that the Landlords have been flexible with the Tenant throughout the tenancy. The Landlord stated that every time the Tenant requested to pay the rent late, the Tenant was reminded of the importance of paying the rent on time. The Landlords provided the following rent payment history:

¹ *Margaret Clow v. Montague Housing Authority*, 2026 PEIRAC 21, paras 49 & 50.

- **April 29, 2023** – requested to pay the rent late.
- **May 24 to May 30, 2024** – the Tenant indicated she could not pay the rent on time.
- **July 1, 2024** – the first eviction notice was issued for non-payment of July's rent (due June 30, 2024). The Tenant paid the outstanding rent within ten days of receiving the eviction notice.
- **October 1, 2024** – the second eviction notice was issued for non-payment of October's rent (due September 30, 2024). The Tenant paid the outstanding rent within ten days of receiving the eviction notice.
- **August 12, 2026** – the Notice was issued for non-payment of August's rent (due July 31, 2026). The Tenant paid the outstanding rent on August 14, 2026.

- [23] The Landlord stated that the Tenant only paid the rent on time when the Tenant was receiving social assistance from November 2024 to June 2026. The Landlord stated that the first month the Tenant was off social assistance she was late paying the rent.
- [24] The Landlord stated that, in addition to the late rent payments, the Tenant is difficult to communicate with because she will not always answer in a timely manner.
- [25] The Tenant did not dispute the Landlord's timeline and late rent payments. The Tenant stated that she would communicate with the Landlords when she knew she would be late with the rent payments. The Tenant stated that each of the three eviction notices were during times of financial hardship due to personal health issues and hospital visits. The Tenant stated that she did not have access to her phone during these periods of time.
- [26] The Tenant stated that she always intended on paying the rent but just did not have the means or method to make the payments nor communicate with the Landlords.
- [27] The Tenant apologized for the late rent payments and stated that September 2026 rent was paid in full and on time.
- [28] Based upon the evidence presented, I am not satisfied that the Tenant was repeatedly late paying rent to the Landlords within the meaning of clause 61(1)(b).
- [29] I have reviewed the Landlord's timeline of late rent payments. It begins in April 2023 and when I questioned the Landlord about earlier late rent payments, the Landlord stated that there were none.
- [30] The tenancy started in April of 2020 and has lasted for over six years. The evidence establishes that in those six years, the Tenant has been late six times, and of those six times, the Landlords issued the Tenant three eviction notices. Each eviction notice was invalidated as the Tenant paid the outstanding rent within ten days of receiving the eviction notice.
- [31] The Landlord stated that he is concerned that the Tenant will be regularly late paying rent on time.
- [32] I find that, despite the Landlord's concerns, future late rent payments are not a valid reason for ending the tenancy. The evidence establishes that the Tenant made two late rent payments in the past two years.
- [33] The legislative context of late rent payment evictions does not support the Notice.
- [34] The *Act* provides tenants with security of tenure under Part 4 of the *Act*. This means that a landlord cannot force a tenant to move out of a rental unit unless the landlord has a lawful basis to do so. Eviction proceedings occur in this context.

- [35] Evictions for repeatedly late rent payments also occur in the legislative context of being one of the twelve grounds for ending a tenancy for cause under subsection 61(1). This subsection includes grounds for termination relating to serious incidents and behaviour such as significantly interfering others, putting property at significant risk, illegal activity, undue damage and knowingly giving false information about a residential property.
- [36] The Tenant's late rent payments over six years must be viewed in the context of other payment timelines.
- [37] In particular, clause 61(1)(a) of the *Act* does not permit a landlord to end a tenancy for non-payment of a security deposit until ten days have passed from the date that the security deposit was required to be paid.
- [38] A landlord can serve an eviction notice for non-payment of rent under subsection 60(1) if rent is not paid on the day it is due. However, clause 60(4)(a) permits a tenant to void a non-payment of rent eviction notice if the tenant pays the rent due within ten days of being served with the eviction notice.
- [39] In this context, the Tenant voided all three eviction notices given for non-payment of rent over the six-year tenancy.
- [40] I also consider the duration of the late payments. In this case the Tenant was never more than ten days late in the months that rent was paid late and an eviction was issued over the past three years. Specifically, the Notice's outstanding rent was paid two days after the Notice was served to the Tenant.
- [41] In this context, I am not satisfied that the Tenant being late once in 2026, four times in 2024, one time in 2023 and never late in 2020, 2021, 2022 and 2025, amounts to repeatedly late rent payments under clause 61(1)(b).
- [42] As a result, I find that the Notice is invalid and the Application is allowed. The tenancy will continue and the Tenant may continue living in the Unit.
- [43] **However, I note that the Landlords have made it clear that they expect rent payments to be made in full and on time.**
- [44] **The Tenant makes any further late rent payments at her own peril.**

IT IS THEREFORE ORDERED THAT

1. The tenancy will continue and the Tenant may continue living in the Unit.

DATED at Charlottetown, Prince Edward Island, this 17th day of September, 2026.

(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 **20 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.