

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 Landlords seek an order requiring the Tenant and all occupants to vacate the Unit for non-payment of rent.

BACKGROUND

- [3] The Unit is a four-bedroom, two-bathroom single family dwelling that the Landlords have owned for two years.
- [4] On December 29, 2025 the Landlords and the Tenant entered into a written, fixed-term tenancy agreement from February 1, 2026 to January 31, 2027. A security deposit of \$2,500.00 was paid in installments. Rent in the amount of \$2,500.00 is due on the first day of the month.
- [5] On August 6, 2026 the Landlords served the Tenant with a *Form 4(A) Eviction Notice* with an effective date of August 28, 2026 (the “Notice”) for non-payment of July and August 2026 rent in the total amount of \$5,000.00.
- [6] On September 8, 2026 the Landlords filed a *Form 2(B) Landlord Application to Determine Dispute* with the Rental Office seeking vacant possession of the Unit and for the Sheriff to put the Landlords in possession.
- [7] On September 8, 2026 the Tenant emailed a *Form 2(A) Tenant Application to Determine Dispute* to the Rental Office disputing the Notice. The Rental Office rejected the Tenant’s application because it was not filed within ten days of the Notice being served.
- [8] On September 9, 2026 the Landlords filed an amended *Form 2(B) Landlord Application to Determine Dispute* (the “Application”) with the Rental Office seeking vacant possession of the Unit and for the Sheriff to put the Landlords in possession, which is determined in this decision. The Application also seeks rent owing, which will be determined in a later decision.
- [9] On September 11, 2026 the Rental Office emailed the parties notice of a tele-hearing scheduled for September 22, 2026 for determining the Application.
- [10] The parties emailed evidence to the Rental Office and served the other party with evidence. The Landlords and the Tenant both sent one email with evidence on September 15, 2026 and the Landlords sent an additional email on September 22, 2026.
- [11] On September 22, 2026 Landlords and the Tenant participated in the tele-hearing. The parties confirmed that their evidence was contained in the three emails identified above.

DISPOSITION

- [12] I find that the Notice is valid and the Application is allowed.
- [13] The Tenant and all occupants must vacate the Unit and return the Unit’s keys to the Landlords by the timeline below.

ISSUE

- A. Must the Tenant and all occupants vacate the Unit and return the Unit’s keys?

ANALYSIS

- [14] The Landlords seek to end the tenancy 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.

- [15] Based upon the evidence presented, I find that the Tenant owed rent to the Landlords in the amount of \$5,000.00 on August 6, 2026, the date that the Notice was served.

- [16] The evidence presented establishes that the following rent payments for the Unit were made to the Landlords regarding July, August and September 2026 rent:

- August 13, 2026 e-Transfer from the Tenant for \$1,210.00;
- August 19, 2026 cheque from Social Services that the Landlords received and deposited on August 24, 2026 for \$1,190.00; and
- August 31, 2026 cheque from Social Services that the Landlords received and deposited on September 3, 2026 for \$1,965.02.

- [17] Clause 60(4)(a) 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...

- [18] I find that the Notice was not invalidated under clause 60(4)(a) because the rent owing was not paid within ten days of the Tenant being served with the Notice. After deducting the \$1,210.00 August 13, 2026 payment, the balance of \$3,790.00 remained outstanding ten days after the Notice was served.

- [19] The Landlords submitted a rent ledger, bank records, e-Transfer records, cheque pay stubs and correspondence with the Tenant regarding the Tenant's payments. The Landlords stated that they record payments as they arrive and continuously monitor their bank account. The Landlords stated that the rent ledger is currently accurate because they did not receive any further payments for the Unit.

- [20] The Tenant admitted that the Landlords' rent ledger was accurate except for two payments. The Tenant stated that there was an additional rent payment to the Landlords from Social Services of \$1,420.80 around August 12, 2026. The Tenant also stated that the Landlords should not have charged a \$175.00 late fee.

August 12, 2026 Payment

- [21] The Tenant argued that Social Services sent the Landlords an additional payment of \$1,420.80 around August 12, 2026. The Tenant referred to a document titled "*Remittance Advice: Payment Number*" dated August 12, 2026 (the "Remittance Document") in the Tenant's evidence and referred to correspondence with the Landlords.

- [22] I find that the Landlords did not receive this \$1,420.80 payment. The Landlords provided detailed evidence regarding the Unit's payments and there is no record that the Landlords in fact received this payment. The Landlords denied providing Social Services with their banking information for direct deposit.

- [23] Further, the Remittance Document lists the Tenant as the payee, not the Landlords. I also note that the vendor number in the Remittance Document is different from the Landlords' vendor number stated in the two rent cheque pay stubs that the Landlords received from Social Services.

- [24] Based upon the evidence presented, I find that the Landlords did not receive the \$1,420.80 payment.

Late Rent Fee

- [25] The Tenant argued that the Landlords requested a \$175.00 late fee because of the Tenant's late rent. The Landlords stated that they did not originally request this fee and instead it was an amount that the Tenant offered.
- [26] I note that the message correspondence on February 28, 2026 and March 24, 2026 shows the Tenant offering to pay the Landlords a late fee. In particular, on March 24, 2026 the Tenant stated *"I just want to at least give you some late fee of course."*
- [27] The correspondence submitted does not show the Landlords originally requesting or suggesting that the Tenant pay a late fee.
- [28] The Landlords stated that they considered that this payment addressed the Tenant moving into the Unit early on January 28, 2026 and electricity expenses. The Tenant was responsible for electricity but the Tenant did not transfer the electricity into the Tenant's name until around February 3, 2026.
- [29] I find that this \$175.00 payment was not intended to be a rent payment. Further, based upon the evidence presented, it does not appear that the Tenant raised the issue of this late fee until recently, after the Notice was served. Therefore, I find that the Tenant had rent owing in the amount of \$5,000.00 when the Notice was served.
- [30] I note that in Order LR25-44¹ (paragraph 28) the Island Regulatory and Appeals Commission determined that the *Act* does not authorize late rent fees.
- [31] However, I also note at the hearing that the Landlords agreed to the \$175.00 being offset towards the amount the Tenant owes the Landlords, which will be determined in a later decision.

Agreement to Continue the Tenancy

- [32] The Tenant argued that there was an agreement communicated through Social Services on August 11, 2026 that the Tenant could continue living in the Unit.
- [33] Section 74 of the *Act* addresses waiver, reinstatement and the creation of a new tenancy agreement after an eviction notice has been served. This section states:

(1) A landlord is entitled to compensation for a former tenant's use and occupation of the rental unit after the tenancy has been terminated.

(2) The acceptance by a landlord of arrears of rent or compensation for use or occupation of the rental unit after notice of termination of tenancy has been given does not operate as a waiver of the notice, as reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree in writing.

(3) The burden of proof that a notice of termination has been waived or the tenancy has been reinstated or a new tenancy created is on the person so claiming.

- [34] Under section 75, it would be expected that this type of agreement would be in writing. I also note that the Tenant has the burden to prove an agreement to continue the tenancy and that the Tenant complied with the agreement.

¹ <https://irac.pe.ca/wp-content/uploads/Order-LR25-44.pdf>

- [35] I have reviewed the documents and testimony provided and I find that there is insufficient evidence to establish an agreement that the Tenant could continue living in the Unit.
- [36] The evidence shows that the Tenant had a history of late rent payments to the Landlords, except for the months of February and June of 2026. The Tenant's rent has not been paid up to date since July 1, 2026.
- [37] The parties had communications earlier in the tenancy regarding agreements and arrangements for late rent payments.
- [38] For instance, on April 16, 2026 the Tenant and the Landlords emailed one another regarding an overdue payment arrangement.
- [39] The parties' July 5, 2026 correspondence establishes an agreement for the Tenant to pay the Landlords July and August 2026 rent, in the amount of \$5,000.00, by August 1, 2026.
- [40] On July 21, 2026 the Tenant sent the Landlords a message seeking to change the July 5, 2026 agreement as follows:
- "\$3750.00 on Aug 1st
\$1250 by the end of August (asap)
\$2500 on the 1st every month from there"*
- [41] However, the Tenant did not make the agreed upon \$5,000.00 payment or the Tenant's proposed \$3,750.00 payment on August 1, 2026. The Landlords later extended the payment of July 2026 rent to August 4, 2026, however, this rent remained outstanding.
- [42] I find that there was no agreement in place preventing the Notice from being served.
- [43] I have reviewed the correspondence between the parties and I find that it does not establish a direct agreement between the Landlords and the Tenant after the Notice was served to continue the tenancy.
- [44] I have reviewed the parties evidence regarding communications with Social Services and I find that there is insufficient evidence of an agreement permitting the Tenant to stay in the Unit.
- [45] The August 11, 2026 email from Social Services to the Tenant in evidence essentially establishes that the Landlords would consider continuing the tenancy at that time. However, I note that on August 11, 2026 the Tenant was still within the ten-day timeline for the Tenant to invalidate the Notice by paying the entire amount of rent due.
- [46] The August 11, 2026 email states that it was necessary for Social Services to pay the Landlords \$2,500.00 of the rent owing. However, the evidence presented only establishes that Social Services made a \$1,190.00 rent payment. I determined above that the Landlords did not receive the \$1,420.80 payment referred to in the Remittance Document. The \$1,310.00 balance still remains outstanding. The Tenant's undated email in evidence from Social Services states that the \$1,965.02 payment Social Services issued on August 31, 2026 was for September's rent.
- [47] According to the August 11, 2026 Social Services email, it was also necessary for the Landlords and the Tenant to enter an agreement for the other \$2,500.00 in rent owing at that time. The Tenant only paid \$1,210.00 of this amount on August 13, 2026 and the balance remains outstanding. The evidence presented does not establish an agreement directly between the Landlords and the Tenant.

- [48] The August 17, 2026 email from Social Services that the Tenant submitted into evidence states that the Landlord wanted payments directly from Social Services until the fixed-term ended or the Tenant moved out. It does not establish that the Landlords agreed that the Tenant could continue living in the Unit or that the Landlords waived the Notice.
- [49] I note that, even if a payment agreement was established, the Tenant would also need to establish that the required payments were in fact made as required. The evidence presented establishes that the payments referred to in the August 11, 2026 email from Social Services are still only partially completed.
- [50] I find that the evidence does not establish that the Notice was waived, the tenancy was reinstated or a new tenancy was created.

Alleged Business Interference

- [51] The Tenant alleged that the Landlords interfered with her business, reducing her income. The Landlords have denied the Tenant's allegation.
- [52] I note that the Tenant has not applied to the Rental Office for a monetary claim against the Landlords.
- [53] The Tenant's September 8, 2026 application, which was rejected by the Rental Office, only sought to invalidate the notice based upon an alleged agreement with the Landlords to a payment plan. I have determined above that there is insufficient evidence of an agreement to continue the tenancy.
- [54] I also note that the Rental Office may not have jurisdiction to determine a claim regarding the Tenant's lost business income.
- [55] I further note that the Tenant was required to pay the rent on time when it was due in accordance with subsection 19(1), which 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.

- [56] For these reasons, I find that the Tenant's allegations of business interference do not change the validity of the Notice.

CONCLUSION

- [57] I find that the Notice is valid and the Application is allowed.
- [58] The Tenant and all occupants must vacate the Unit and return the Unit's keys to the Landlords by the timeline below.
- [59] I acknowledge that the Tenant is encountering challenging personal circumstances.
- [60] However, the date in the Notice that the Tenant was supposed to move out of the Unit was August 28, 2026.
- [61] I will not extend the vacate date past the minimum period for enforcement of this Order by Sheriff Services because of the Tenant's current and significant rental arrears of \$3,134.94.

IT IS THEREFORE ORDERED THAT

1. The tenancy between the parties will terminate effective **5:00 p.m. on October 1, 2026**.
2. The Tenant and all occupants must vacate the Unit and return the Unit's keys to the Landlords 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 23rd day of September, 2026.

(sgd.) Andrew Cudmore

Andrew Cudmore
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.