



Docket: LR22031

Order: LR22-27

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Bosheng “Bryan” Li against Order LD22-117 issued by the Director of Residential Rental Property and dated April 22, 2022.

BEFORE THE COMMISSION ON Monday, June 13, 2022.

Panel Chair - Erin T. Mitchell, Commissioner
M. Douglas Clow, Vice-Chair

Hearing Date: Thursday, June 2, 2022

ORDER

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(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

This appeal asks the Commission to determine whether the Director erred in allowing the early termination of a rental agreement by a tenant.

BACKGROUND

Rahaf Geisa (the “Tenant”) entered a written fixed-term rental agreement for premises located at 61 Village Green Road, Mount Mellick, PE (the “Premises”), with Bosheng “Bryan” Li (the “Landlord”) from September 1, 2021 to May 31, 2022. Rent in the amount of \$1,200 was due on the first day of the month.

On March 1, 2022, the Tenant filed with the Office of the Director of Residential Rental Property (the “Director”) an Application for Enforcement of Statutory of Other Conditions of Rental Agreement seeking an order to authorize the termination of the rental agreement (“Form 2”).

In Order LD22-117 dated April 22, 2022, the Director ordered that the rental agreement be terminated effective January 31, 2022.

The Landlord appealed.

The Commission heard the appeal on June 2, 2022. The Landlord and Tenant both participated by way of telephone conference call.

Disposition

The appeal is dismissed.

The Issue

Did the Director correctly determine that the Form 2 was valid?

Analysis

The testimony of the parties and the documents on file indicate to the Commission that the condition of the premises played only a minor role in this matter, although the Landlord did acknowledge issues with water clarity following rainy weather. The primary issue is the duty to mitigate given the Tenant’s early termination of the rental agreement.

Section 29 of the *Act* reads:

29. If the lessee abandons the premises or terminates the rental agreement otherwise than in accordance with this Act, the lessor shall mitigate any damages that may be caused by the abandonment or termination to the extent that a party to a contract is required by law to mitigate damages.

In Order LR20-39, the Commission explored a landlord’s duty to mitigate in considerable depth and then concluded:

In addressing the lessor's duty to mitigate under section 29 of the Act, the Commission finds that the adequacy of mitigation, not just whether or not mitigation occurred, may be considered. The quantum of the claim and the remaining duration

of the rental agreement are relevant facts to consider when addressing the adequacy of mitigation. What may be considered reasonable efforts to mitigate for a small claim or a short period of time may be lacking for a large claim or an extended period of time.

In the present case, the screenshots of text messages between the parties reveal that the Tenant was attempting to find a new tenant to take over the lease while the Landlord was frustrating those attempts. In addition, there was no evidence that the Landlord did anything to find a new tenant in order to mitigate damages.

For the above reasons, the Commission agrees with the end result reached by the Director and accordingly, the appeal is denied and Order LD22-117 is confirmed.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*,

IT IS ORDERED THAT

1. The appeal is denied.
2. The rental agreement is terminated, effective January 31, 2022, as set out in Order LD22-117.

DATED at Charlottetown, Prince Edward Island, Monday, June 13, 2022.

BY THE COMMISSION:

(sgd. Erin T. Mitchell)

Panel Chair - Erin T. Mitchell, Commissioner

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

NOTICE

Subsections 26(2), 26(3), 26(4) and 26(5) of the *Rental of Residential Property Act* provides as follows:

26. (2) A lessor or lessee may, within fifteen days of the decision of the Commission, appeal to the court on a question of law only.
 - (3) The rules of court governing appeals apply to an appeal under subsection (2).
 - (4) Where the Commission has confirmed, reversed, or varied an order of the Director and no appeal has been taken within the time specified in subsection (2), the lessor or lessee may file the order in the court.
 - (5) Where an order is filed pursuant to subsection (4), it may be enforced as if it were an order of the court.