



**Docket: LR21031**  
**Order: LR21-30**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Ed Keunecke, against Order LD21-285 issued by the Director of Residential Rental Property and dated July 29, 2021.

**BEFORE THE COMMISSION ON** Wednesday, August 25, 2021.

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

Hearing Date: Monday, August 23, 2021

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# ORDER

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(Sgd.) Susan Jefferson  

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Commission Administrator  
Corporate Services and Appeals

This appeal asks the Commission to determine whether the Director erred in finding that an eviction notice was not valid.

## **BACKGROUND**

A landlord, Ed Keunecke (“Mr. Keunecke”), rented premises located at 39 Passmore Street, Apartment #1, Charlottetown, PE (the “Premises”), to two tenants, Carrie Lawlor (“Ms. Lawlor”) and Raymond Acorn (“Mr. Acorn”), commencing on December 15, 2019. The monthly rent is \$987.50 per month due on the first day of the month.

On July 4, 2021, Mr. Keunecke served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Ms. Lawlor and Mr. Acorn citing two reasons. First, that the tenants breached clause 14(1)(a) of the *Act* by admitted persons to the Premises who have interfered with the possession, occupancy or quiet enjoyment of other tenants; and, second, that the rental agreement was for a fixed term with an option to renew, and the tenants have not exercised this option.

The effective date of the Form 4 was August 4, 2021.

On July 14, 2021, Ms. Lawlor filed with the Director of Residential Rental Property (the “Director”) an Application by Lessee to Set Aside Notice of Termination (“Form 6”).

In Order LD21-285 dated July 29, 2021, the Director ordered that the Form 4 was invalid, the Form 6 was allowed, and that the rental agreement remain in full force and effect.

Mr. Keunecke appealed.

The Commission heard the appeal on August 23 2021. Mr. Keunecke and Ms. Lawlor participated by way of telephone conference call.

## **Disposition**

The appeal is denied.

## **The Issue**

Did the Director correctly determine that the Form 4 dated July 4, 2021 was invalid?

## **Analysis**

Mr. Keunecke has provided evidence in the form of written statements from three neighbours of the Premises that a cat had been seen in the unit, contrary to the lease. The statements did not provide significant detail, and the authors of the statements were not called as witnesses in the hearing. Ms. Lawlor stated that the cat was only in the unit for a few days and is no longer in the unit. The Commission finds that there remains insufficient evidence on how long the cat was in the unit to justify the termination of the rental agreement on that basis alone.

Mr. Keunecke also alleged that the tenants had illegally changed the lock to the Premises. Upon questioning, it was acknowledged by both parties that the lock had been changed

early in the rental agreement. Mr. Keunecke did not take action on this issue from the time he learned of the change in 2019 until he made this application. The Commission therefore declines to terminate the rental agreement at this time on this basis.

Mr. Keunecke made other allegations about the tenant that he supported with his own testimony and a written statement of another individual. Mr. Keunecke's allegations were not corroborated, and merely speculative in nature. The author of the written statement was not presented as a witness who could be questioned on the statement in order to clarify and test their evidence.

The onus is on a party seeking to rely on evidence to present that evidence to the Commission. Mr. Keunecke initially stated that he was not aware he was allowed to call witnesses; however, he later advised that his witness could not take the time off of work to participate in the entire hearing. The Commission notes the August 12, 2021, letter to Mr. Keunecke provided a website link to the Commission's Frequently Asked Questions (FAQs) for rental appeals. These FAQs discuss the presence of witnesses and state:

*Your witnesses, if you wish to have witnesses, should be made aware of the date, time and location of the hearing.*

*... PLEASE NOTE: The Commission is not an investigative body. Any request by you to the Commission to contact a witness, or seek out additional evidence, will not be granted.*

The Commission cannot give significant weight to the allegations made by Mr. Keunecke which were repeated and expanded upon through the written statement made by the other individual. The Commission finds that the weight of such evidence is insufficient, based on the civil standard of the balance of probabilities, to justify the termination of the rental agreement.

Accordingly, the appeal is denied.

**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. **Director's Order LD21-285 is confirmed.**

**DATED** at Charlottetown, Prince Edward Island, Wednesday, August 25, 2021.

**BY THE COMMISSION:**

**(sgd. Erin T. Mitchell)**

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Panel Chair - Erin T. Mitchell, Commissioner

**(sgd. M. Douglas Clow)**

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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.