



Docket: LR21040
Order: LR21-37

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Carla Adams, against Order LD21-329 issued by the Director of Residential Rental Property and dated September 1, 2021.

BEFORE THE COMMISSION ON Tuesday, September 14, 2021.

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

Hearing Date: Tuesday, September 14, 2021

ORDER

Compared and Certified a True
Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

This appeal asks the Commission to determine whether the Director erred in finding that an eviction notice was valid.

BACKGROUND

Carla Adams (“Ms. Adams”) rented premises located at 24 Gerald Street, Apartment #14, Charlottetown, PE (the “Premises”), from McInnis Group (1993) Ltd. (“McInnis Group”) commencing on June 1, 2017. Rent in the amount of \$785 is due on the first day of the month.

On August 2 2021, a representative of McInnis Group served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Ms. Adams citing breaches of clauses 14(1)(a) and 14(1)(e) of the *Act*. The effective date of the Form 4 was September 2, 2021.

On August 11, 2021, Ms. Adams filed with the Director of Residential Rental Property (the “Director”) an Application by Lessee to Set Aside Notice of Termination (“Form 6”).

In Order LD21-329 dated September 1, 2021, the Director ordered that the Form 4 was valid, the Form 6 was dismissed, and that Ms. Adams and all occupants vacate the Premises by 10:00 a.m. on September 7, 2021.

Ms. Adams appealed.

The Commission heard the appeal on September 14, 2021. Ms. Adams and the McInnis Group, represented by Shelley Paynter (“Ms. Paynter”), participated by way of telephone conference call.

Disposition

The appeal is denied. Director’s Order LD21-329 is confirmed, subject to a variation in the date the Appellant must vacate the Premises.

The Issue

Did the Director correctly determine that the Form 4 dated September 1, 2021 was valid?

Analysis

The participants provided testimony to the Commission and referred to documents that were previously considered by the Director. There was no new evidence presented to the Commission which would warrant disturbing the findings of the Director in Order LD21-329.

In the course of her testimony, it became apparent that, while the Appellant would prefer that Director’s Order LD21-329 be overturned, she requested in the alternative that the date to vacate the Premises be extended to Monday, September 20, 2021. In the course of the testimony of the representatives of the McInnis Group, it became apparent that while they would prefer that Director’s Order LD21-329 be upheld in its entirety, they were agreeable in the alternative to extending the date to vacate the Premises to Monday, September 20, 2021.

The appeal is denied. Director's Order LD21-329 is confirmed, subject to a variation in the vacate date for the Premises from 10:00 a.m. September 7, 2021 (as ordered by the Director) to 10:00 a.m. September 20, 2021 (as ordered by the Commission).

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 LD21-329 is confirmed, subject to a new vacate date of 10:00 a.m. September 20, 2021.
3. A certified copy of this Order and of Order LD21-329 may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

DATED at Charlottetown, Prince Edward Island, Tuesday, September 14, 2021.

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.