



Docket: LR21044
Order: LR21-40

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Robin Paynter against Order LD21-340 issued by the Director of Residential Rental Property and dated September 9, 2021.

BEFORE THE COMMISSION ON Wednesday, September 22, 2021.

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

Hearing Date: Tuesday, September 21, 2021

ORDER

Compared and Certified a True
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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 finding that an eviction notice was valid.

BACKGROUND

Robin Paynter (“Mr. Paynter”) rents premises located at 4829 St. Mary’s Road, Cottage #4, Stanley Bridge, PE (the “Premises”), from 102400 P.E.I. Inc. (the “Landlord”). Rent in the amount of \$800 is due on the first day of the month.

On August 13, 2021, a representative of the Landlord, Canh Tran (“Mr. Tran”) served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Mr. Paynter citing breaches of clause 14(1)(e) of the *Act*. The effective date of the Form 4 was September 15, 2021.

On August 19, 2021, Mr. Paynter filed with the Director of Residential Rental Property (the “Director”) an Application by Lessee to Set Aside Notice of Termination (“Form 6”).

In Order LD21-340 dated September 9, 2021, the Director ordered that the Form 4 was valid, the Form 6 was dismissed, and that Mr. Paynter vacate the Premises by 11:59 p.m. on September 15, 2021.

Mr. Paynter appealed.

The Commission heard the appeal on September 21, 2021. Mr. Paynter and the Landlord, represented by legal counsel, Iain McCarvill (“Mr. McCarvill”) and Mr. Tran, participated by way of telephone conference call.

Disposition

The appeal is denied and Director’s Order LD21-340 is confirmed.

The Issue

Did the Director correctly determine that the Form 4 dated August 13, 2021 was valid?

Analysis

Mr. Paynter and Mr. Tran provided testimony to the Commission and Mr. McCarvill made legal submissions. There is no new evidence before the Commission which would warrant disturbing the findings of the Director in Order LD21-340.

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 LD21-340 is confirmed.**

DATED at Charlottetown, Prince Edward Island, Wednesday, September 22, 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.