



Docket: LR21043
Order: LR21-43

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Tanya Varga and Ross Milligan against Order LD21-343 issued by the Director of Residential Rental Property and dated September 10, 2021.

BEFORE THE COMMISSION ON Friday, September 24, 2021.

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

Hearing Date: Thursday, September 23, 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

Tanya Varga (“Ms. Varga”) and Ross Milligan (“Mr. Milligan”) rent premises located at 4829 St. Mary’s Road, Cottage #2, Stanley Bridge, PE (the “Premises”), from 102400 P.E.I. Inc. (the “Landlord”).

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 Ms. Varga and Mr. Milligan citing breaches of clause 14(1)(e) of the *Act*. The effective date of the Form 4 was September 15, 2021.

On August 17, 2021, Ms. Varga and Mr. Milligan filed with the Director of Residential Rental Property (the “Director”) an Application by Lessee to Set Aside Notice of Termination (“Form 6”).

In Order LD21-343 dated September 10, 2021, the Director ordered that the Form 4 was valid, the Form 6 was dismissed, and that Ms. Varga and Mr. Milligan vacate the Premises by 11:59 p.m. on September 15, 2021.

Ms. Varga and Mr. Milligan appealed.

The Commission heard the appeal on September 23, 2021. Ms. Varga, Mr. Milligan, Connor Kelley (“Mr. Kelley”) and the Landlord, represented by Mr. Tran and legal counsel, Iain McCarvill (“Mr. McCarvill”), participated by way of telephone conference call.

Disposition

The appeal is denied and Director’s Order LD21-343 is confirmed.

The Issue

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

Analysis

Ms. Varga, Mr. Milligan and Mr. Tran provided testimony to the Commission. Mr. Kelley made submissions as the Appellants’ lay representative and Mr. McCarvill made legal submissions.

The Appellants acknowledge that they were given an opportunity by the Landlord to rectify the breach, but did not do so. Though they asked a law enforcement officer whether they were permitted to continue the activity constituting the breach, they did not seek legal counsel, and unfortunately acted upon incomplete advice.

The Commission has reviewed and applied the applicable legislation and finds that the Director was correct in granting the Landlord's application. There is no new evidence before the Commission which would warrant disturbing the findings of the Director in Order LD21-343.

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 LD21-343 is hereby confirmed.

DATED at Charlottetown, Prince Edward Island, Friday, September 24, 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.