



**Docket: LR21048**

**Order: LR21-46**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Gordon Campbell against Orders LD21-370 and LD21-371 issued by the Director of Residential Rental Property and both dated September 29, 2021.

**BEFORE THE COMMISSION ON** Friday, October 15, 2021.

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

Hearing Date: Thursday, October 14, 2021

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# ORDER

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(Sgd.) Susan Jefferson  
Commission Administrator  
Corporate Services and Appeals

This appeal asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in finding that an eviction notice was valid.

## **BACKGROUND**

Gordon Campbell (“Mr. Campbell”) rents premises located at 20 Lower Malpeque Road, Unit 174, Charlottetown, PE (the “Premises”), from Empire Developments Inc. (the “Landlord”).

On September 8, 2021, a representative of the Landlord served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Mr. Campbell citing breaches of clause 14(1)(a) of the *Act*. The effective date of the Form 4 was October 8, 2021.

On September 9, 2021, the Landlord filed with the Director an Application by Lessor for Earlier Termination (“Form 5”) seeking to terminate the rental agreement effective September 19, 2021.

On September 14, 2021, Mr. Campbell filed with the Director an Application by Lessee to Set Aside Notice of Termination (“Form 6”).

In Order LD21-370 dated September 29, 2021, the Director ordered that the Form 5 application be dismissed.

In Order LD21-371 dated September 29, 2021, the Director ordered that the Form 4 was valid, the Form 6 was dismissed, and that Mr. Campbell vacate the Premises by 2:00 p.m. on October 8, 2021.

Mr. Campbell appealed both Orders.

The Commission heard the appeal on October 14, 2021. Mr. Campbell, representing himself, as well as Tami MacIntyre and Stephen MacDougall, who together represented the Landlord, participated by way of telephone conference call.

## **Disposition**

The appeal is denied and Director’s Order LD21-370 is confirmed. Order LD21-371 is varied to provide a later vacate date.

## **The Issue**

Did the Director correctly determine that the Form 4 dated September 8, 2021 was valid?

## **Analysis**

Clause 14(1)(a) of the *Act* reads:

*14. Grounds for termination*

*(1) The lessor may also serve a notice of termination upon the lessee where*

*(a) statutory condition 3 or 4, or any other term of rental agreement has been breached, other than failure to pay rent;*

Statutory Condition 3 is found in section 6 of the *Act* and reads:

*3. Good Behaviour*

*The lessee and any person admitted to the premises by the lessee shall conduct themselves in such a manner as not to interfere with the possession, occupancy or quiet enjoyment of other lessees.*

The Commission finds that the totality of the video and documentary evidence, together with the testimony of the parties, establishes that Mr. Campbell has breached Condition 3 of the rental agreement.

The Commission notes that the failure of the air conditioner in Mr. Campbell's unit appears to have triggered a pattern of behavior by Mr. Campbell. While it is understandable that Mr. Campbell would be very uncomfortable in his unit during a hot summer without working air conditioning, he expressed his frustrations in an unacceptable manner and that behavior breached the quiet enjoyment of other tenants.

Accordingly, the appeal is denied. The Commission agrees with the findings of the Director in Orders LD21-370 and LD-371. Order LD21-370 is confirmed, while the date to vacate the Premises is varied in Order LD21-371 to **2:00 p.m. on October 22, 2021**.

**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 LD21-370 is varied to read: "1. *The Tenant and all occupants must vacate the premises by 2:00 p.m. on October 22, 2021.*" In all other respects, Order LD21-370 is confirmed.**
3. **Director's Order LD21-371 is confirmed.**

**DATED** at Charlottetown, Prince Edward Island, Friday, October 15, 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.