



Docket: LR22004
Order: LR22-05

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Mark Stewart, against Orders LD22-007 and LD22-008 issued by the Director of Residential Rental Property and dated January 11, 2022.

BEFORE THE COMMISSION ON Monday, February 7, 2022.

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

Hearing Date: Wednesday, February 2, 2022

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

Tommy Ford (“Mr. Ford”) rented premises located at 74B Spring Park Road, Charlottetown, PE (the “Premises”), to Mark Stewart (“Mr. Stewart”) commencing September 1, 2021. Rent for the Premises is \$725 per month and is due and payable on the first day of the month.

On December 1, 2021, Mr. Ford served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) to Mr. Stewart citing failure to pay December, 2021 rent. The effective date of the Form 4 was December 20, 2021.

On December 9, 2021 Mr. Stewart filed with the Director of Residential Rental Property (the “Director”) an Application to Set Aside the Notice of Termination (“Form 6”).

On December 22, 2021, Mr. Ford filed with the “Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (“Form 2”) seeking an Order for possession of the Premises.

Both applications were heard by the Director at the same time. In Order LD22-007 dated January 11, 2022 the Director dismissed the Form 6 application. In Order LD22-008, also dated January 11, 2022, the Director found that the Form 4 was valid, and ordered that the rental agreement be terminated effective 5:00 p.m., January 24, 2022.

Mr. Stewart appealed.

The Commission heard the appeal on February 2, 2022. Mr. Stewart and Mr. Ford participated by way of telephone conference call.

Disposition

The appeal is denied.

The Issue

Did the Director correctly determine that the Form 4 was valid?

Analysis

Mr. Ford testified that he has not received payment for rent for the month of December 2021 in spite of numerous attempts to collect rent. He also testified that the rent has not been paid, to date, for January and February 2022.

Mr. Stewart testified that he gave money to a third party and instructed that person to pay it to Mr. Ford.

The Commission agrees with the Director that rent was never received by Mr. Ford. Accordingly, the Commission denies the appeal and Order LD22-008 is confirmed.

With respect to Order LD22-007, a determination of whether either s.14(1)(a) or s.14(1)(e) of the Act justify a termination of the rental agreement is unnecessary in this matter. Accordingly the Commission agrees, given the particular facts in this case, with the Director's decision and thus Order LD22-007 is also confirmed.

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 Orders LD22-007 and LD22-008 are confirmed.**

DATED at Charlottetown, Prince Edward Island, the 7th day of February, 2022.

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.