



Docket: LR22008

Order: LR22-09

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Xixiu Shi against Order LD22-037 issued by the Director of Residential Rental Property and dated February 11, 2022.

BEFORE THE COMMISSION ON Tuesday, March 1, 2022.

Panel Chair - Erin T. Mitchell, Commissioner

M. Douglas Clow, Vice-Chair

Hearing Date: Monday, February 28, 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 of Residential Rental Property (the “Director”) erred in finding that an eviction notice was invalid.

BACKGROUND

Xixiu Shi (“the Landlord”) rents a townhouse located at 208 Stratford Road, Stratford, PE (the “Premises”), to Peter and Nicole DeGrace (the “Tenants”). Rent for the Premises is \$934.25 per month.

On January 2, 2022, the Landlord served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on the Tenants, citing that she wants possession of the Premises for herself pursuant to clause 15(1)(a) of the *Act*.

On January 7, 2022, the Tenants filed with the Director an Application by Lessee to Set Aside Notice of Termination.

In Order LD22-037 dated February 11, 2022, the Director ordered that the Form 4 was invalid and that the rental agreement continues to be in full force and effect.

The Landlord appealed.

The Commission heard the appeal on February 28, 2022, by way of telephone conference call. The Landlord participated and was represented by her daughter Amy Liu. The Tenants also participated.

Disposition

The appeal is denied and Director’s Order LD22-037 is confirmed.

The Issue

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

Analysis

Subsection 15(1) of the *Act* reads:

15. Personal use, renovations, etc.

(1) Where the lessor in good faith seeks to

(a) have possession of the premises for occupation by himself, his spouse, children or parents, or the parents of his spouse;

(b) convert the premises to a use other than residential use;

(c) renovate the premises where the nature of the renovations is advised to the lessee and are such that the renovations cannot be carried out while the lessee occupies the premises;

(d) demolish the premises,

the lessor may serve the lessee with a notice of termination to be effective not less than two months after it is served.

[Emphasis added]

Having reviewed the exhibits and the testimony of the parties, the Commission finds that there is no basis to disturb the findings of the Director in Order LD22-037. The Commission confirms that the rental agreement continues to be in full force and effect.

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 LD22-037 is confirmed.**

DATED at Charlottetown, Prince Edward Island, the 1st day of March, 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.