



Docket: LR22016

Order: LR22-13

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Paula Flanagan and Craig Hughes against Order LR22-051 issued by the Director of Residential Rental Property and dated February 28, 2022.

BEFORE THE COMMISSION ON Wednesday, March 23, 2022.

Panel Chair - Erin T. Mitchell, Commissioner

M. Douglas Clow, Vice-Chair

Hearing Date: Tuesday, March 22, 2022

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 of Residential Rental Property (the “Director”) erred in finding that an eviction notice was valid.

BACKGROUND

Paula Flanagan and Craig Hughes (“the Tenants”) rent an apartment located at 1–19 Hillsborough Street, Charlottetown, PE (the “Premises”), from Michel Al-Mayaleh (the “Landlord”). Rent for the Premises is currently \$1,086.76 per month.

On January 6, 2022, the Landlord served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on the Tenants, citing that he wants possession of the Premises for his daughter pursuant to clause 15(1)(a) of the *Act*.

On January 13, 2022, the Tenants filed with the Director an Application by Lessee to Set Aside Notice of Termination.

In Order LD22-051 dated February 28, 2022, the Director ordered that the Form 4 was valid and that the rental agreement will terminate effective 5:00 p.m. on March 11, 2022.

The Tenants appealed.

The Commission heard the appeal on March 22, 2022, by way of telephone conference call. The Tenants, the Landlord and Racha Al-Mayaleh participated.

Disposition

The appeal is dismissed and Director’s Order LD22-051 is confirmed, subject to a variation in the termination date of the rental agreement. The rental agreement will now terminate effective 5:00 p.m. on March 31, 2022.

The Issue

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

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]

The Tenants take the position that they should be able to stay in the Premises. In the alternative, they request that the termination date be moved ahead to May 1 or June 1, 2022.

The Landlord takes the position that Director's Order LD22-051 is correct as his daughter intends to move into the Premises in March 2022.

Having reviewed the documents on file and the testimony of the parties, along with the testimony of Racha Al-Mayaleh, the Commission agrees with the Director and is satisfied that the Landlord, in good faith, seeks to have possession of the premises for occupation by his daughter.

Given that the termination date set out in Order LD22-051 has passed, the Commission has determined that a variation of the rental agreement termination date is appropriate. The rental agreement will now terminate effective 5:00 p.m. on March 31, 2022.

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 dismissed.**
2. **Director's Order LD22-051 is confirmed, subject to a variation in the rental agreement termination date to March 31, 2022 at 5:00 p.m.**

DATED at Charlottetown, Prince Edward Island, the 23rd 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.