



Docket: LR22019

Order: LR22-17

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Charles MacAulay against Order LD22-070 issued by the Director of Residential Rental Property dated March 15, 2022.

BEFORE THE COMMISSION ON Tuesday, March 29, 2022.

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

Hearing Date: Monday, March 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 valid.

BACKGROUND

Charles MacAulay (“Mr. MacAulay”) rents premises located at 20 Lower Malpeque Road, Unit 115, Charlottetown, PE (the “Premises”), from Empire Developments Inc. (the “Landlord”).

On February 10, 2022, a representative of the Landlord served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Mr. MacAulay for failure to pay rent. The effective date of the Form 4 was March 2, 2022.

On March 7, 2022, the Landlord filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking an order that possession of the Premises be surrendered to the lessor and directing the Sheriff to put the lessor in possession.

In Order LD22-070 dated March 15, 2022, the Director ordered that the Form 4 application was valid and that the Mr. MacAulay and all occupants vacate the Premises by 8:00 a.m. on March 21, 2022.

Mr. MacAulay appealed the Order.

The Commission heard the appeal on March 28, 2022, by way of telephone conference call. Mr. MacAulay represented himself. Tami MacIntyre (“Ms. MacIntyre”) represented the Landlord.

Disposition

The appeal is dismissed and Director’s Order LD22-070 is confirmed.

The Issue

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

Analysis

Mr. MacAulay advised that he had fallen behind on his rent and acknowledges that he owes \$1,700. He advised that he wants to stay in the Premises, as he has lived there for over two years and there is nowhere else to go.

Ms. MacIntyre advised that she had been “chasing” Mr. MacAulay for rent as documented in the text messages contained in Exhibit E-10. He owes \$1,700 rent for February and March 2022.

Mr. MacAulay did not pay the then outstanding rent of \$700 within 10 days of the February 10, 2022 Form 4. Mr. MacAulay did not file a set-aside application in response to that Form 4 and thus is deemed to have accepted the termination of the rental agreement.

Mr. MacAulay is still living in the Premises and, to date, has not paid any rent for the month of March 2022.

The Commission agrees with the Director's findings and confirms Order LD22-070. The appeal is dismissed.

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 LD22-070 is confirmed.

DATED at Charlottetown, Prince Edward Island, this 29th 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.