



Docket: LR22032

Order: LR22-23

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Steven MacPherson, against Order LD22-107 issued by the Director of Residential Rental Property and dated April 12, 2022.

BEFORE THE COMMISSION ON Monday, May 9, 2022.

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

Hearing Date: Monday, May 9, 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

Steven MacPherson (“Mr. MacPherson”) has rented premises located at 28 Doncaster Avenue, Apartment #1, Charlottetown, PE (the “Premises”), from Doris MacLeod (“Ms. MacLeod”) since 2015. Rent for the Premises is \$600 per month and is due and payable on the first day of the month.

On March 4, 2022, Ms. MacLeod served Mr. MacPherson with a Notice of Termination by Lessor of Rental Agreement (“Form 4”) for non-payment of March 2022’s rent.

On March 28, 2022, Ms. MacLeod filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement requesting a finding that rent is owed; and order that an amount found to be owed be paid; and an order that possession of the Premises be surrendered to Ms. MacLeod.

Both applications were heard by the Director at the same time. In Order LD22-107 dated April 12, 2022, the Director found that the Form 4 was valid, and ordered that the rental agreement be terminated effective 5:00 p.m. on April 30, 2022. In Order LD22-108 dated April 12, 2022, the Director ordered that Mr. MacPherson pay Ms. MacLeod the sum of \$1,200.

Mr. MacPherson appealed Order LD22-107.

The Commission heard the appeal on May 9, 2022. Ms. MacLeod and her son Trevor MacLeod participated by way of telephone conference call. Mr. MacPherson did not participate.

Disposition

The appeal is deemed abandoned and therefore dismissed.

The Issue

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

Analysis

Mr. MacPherson did not participate in the hearing. The Commission noted on the record that Mr. MacPherson was provided with a Notice of Hearing by e-mail and received e-mail confirmation of delivery. In addition, Commission staff called Mr. MacPherson shortly after the start of the hearing, left a voicemail message and waited several more minutes before commencing the hearing. As Mr. MacPherson did not participate on his own appeal, the appeal is deemed to be abandoned and the appeal is dismissed.

Accordingly, Order LD22-107 remains 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 deemed abandoned and therefore is dismissed.
2. Director's Order LD22-107 remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, the 9th day of May 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.