



Docket: LR22036

Order: LR22-29

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Virginia Arsenault against Orders LD22-152 and LD22-153 issued by the Director of Residential Rental Property and both dated May 18, 2022.

BEFORE THE COMMISSION ON Monday, June 20, 2022.

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

Hearing Date: Wednesday, June 15, 2022

ORDER

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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 was valid and denying an application for return of rent.

Background

Ian Thomson and Sue Grady (the “Landlords”) rent premises located at 175 Central Street, Apartment C, Summerside, PE (the “Premises”), to Virginia Arsenault (“Ms. Arsenault”) and have done so since August 2019. Rent for the Premises is \$650 per month and is due and payable on the first day of the month.

On April 16, 2022, Ms. Arsenault filed with the Director an application seeking a return of rent in the amount of \$3,600 pursuant to subsections 8(d.1) and 8(d.2) of the *Act*.

On April 19, 2022, Ms. Arsenault filed with the Director a set aside application together with a termination notice (“Form 4”) dated April 16, 2022, signed by Ian Thomson (“Mr. Thomson”). The effective date of the Form 4 was May 16, 2022.

On May 17, 2022, both applications were heard by the Director. In Order LD22-152 dated May 18, 2022, the Director ordered that the rental agreement between the parties will terminate at 5:00 p.m. on May 31, 2022, and that Ms. Arsenault was to vacate the Premises by that date and time. In Order LD22-153, the Director denied Ms. Arsenault’s request for a return of rent.

Ms. Arsenault appealed both orders.

The Commission heard the appeal by way of telephone conference call on June 15, 2022. Ms. Arsenault participated. The Landlords were represented by Ian Thomson (“Mr. Thomson”).

Disposition

The appeal is dismissed and Director’s Orders LD22-152 and LD22-153 are confirmed.

The Issue

Did the Director correctly deny the request for a return of rent, and find that the termination of the rental agreement was valid?

Analysis

Ms. Arsenault testified as to her complaints with respect to lack of heat in two rooms in the Premises, noting that she experienced problems with the heat for three years. She stated that the plumber never checked her radiators. She indicated that she felt that she was being evicted because she complained about the heat and had applied for a return of rent.

Mr. Thomson explained that a plumber had checked the heating system and replaced a zone valve and the circulation pump. He noted that the other tenants had complained about noise caused by Ms. Arsenault and they filed written complaints about the noise.

He stated that he was not aware of the return of rent application when he filed the Form 4 to terminate the rental agreement.

Upon hearing the testimony as well as reviewing the documents and videos on file, the Commission finds that there is no evidence which would warrant disturbing the findings of the Director in Orders LD22-152 or LD22-153. Though the evidence establishes that Ms. Arsenault had complained numerous times about the lack of heat in the Premises, there is insufficient evidence to establish that she suffered financial losses as a result. The evidence also supports a finding that Ms. Arsenault was interfering with the quiet enjoyment of the other tenants in the building.

Accordingly, the appeal is denied and these Orders are 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 LD22-152 and LD22-153 are confirmed.

DATED at Charlottetown, Prince Edward Island, Monday, June 20, 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.