



Docket: LR22037

Order: LR22-30

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Melissa Arsenault, against Order LD22-142 issued by the Director of Residential Rental Property and dated May 12, 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 denying an application for return of rent.

Background

Norbert Trainor (“Mr. Trainor”) rents premises located at 1224 Donagh Road, Donagh, PE (the “Premises”), to Melissa Arsenault (“Ms. Arsenault”) commencing May 1, 2021. Rent for the Premises is \$900 per month and is due and payable on the first day of the month.

On March 8, 2022, Ms. Arsenault filed with the Director an application for an order (Form 2) seeking to prohibit the discontinuance of the service in question; a finding that rent is owed; an order than amount found to be owed by paid; return of rent in the amount of \$1,200; and repairs to the Premises.

On April 27, 2022, the application was heard by the Director. In Order LD22-142 dated May 12, 2022, the Director denied Ms. Arsenault’s request for return of rent and ordered that Mr. Trainor conduct certain repairs to the Premises by June 6, 2022, and that debris on the Premises be removed no later than May 20, 2022.

Ms. Arsenault appealed.

The Commission heard the appeal by way of telephone conference call on June 15, 2022. Both Ms. Arsenault and Mr. Trainor participated.

Disposition

The appeal is dismissed with respect to the return of rent. Order LD22-142 is confirmed, subject to a variance setting out a new deadline for repairs to the Premises.

The Issue

Did the Director correctly deny the request for a return of rent and ordering repairs and maintenance to the Premises?

Analysis

Ms. Arsenault testified that the repairs ordered by the Director to be completed by June 6, 2022 have not been done. She also raised concern about lack of grass cutting and snow removal services, which she believes are the responsibility of Mr. Trainor.

Mr. Trainor admitted to being forgetful. He stated that he had not agreed to provide snow removal and grass cutting services, and that there had been no explicit agreement with respect to same at the beginning of the tenancy. He stated that there is a mower available for Ms. Arsenault to use, if she wishes.

Though the issues about which she has complained are no doubt inconvenient to her, the Commission has no evidence upon which to grant a return of rent claim. Ms. Arsenault stated that the amount she was claiming was a “rough estimate” based on a loss of food and the problems she had identified around the property. There was no evidence before

the Commission to substantiate the amount claimed. The Commission therefore finds that Ms. Arsenault has not established a claim for return of rent in the amount of \$1,200.

The Commission is, however, concerned that Mr. Trainor has failed to perform the repairs ordered by the Director, specifically:

1. *The Landlord, his representative or contractor must complete the work listed below by June 6, 2022:*
 - a) *inspect the Premises and repair outside holes that could allow pests to access the Premises;*
 - b) *inspect the water hookup beside the washer to determine whether it is working properly and make any necessary repairs; and*
 - c) *inspect under the bathroom sink (Evidence Package page 14) and make any necessary repairs-to make it safe and sanitary.*
2. *The Landlord, his representative or contractor must remove any scrap metal pieces remaining at the Premises that belong to the Landlord by May 20, 2022.*

The Commission hereby orders Mr. Trainor to complete the above stated repairs by July 15, 2022. In the event Mr. Trainor fails to complete these repairs, Ms. Arsenault may report such inaction to the Director who shall take such enforcement action as is appropriate and authorized under the *Act*.

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 with respect to the return of rent application.
2. Order LD22-142 is confirmed, subject to a variance to extend the deadline for repairs to July 15, 2022.
3. In the event the repairs are not completed by July 15, 2022, the Director shall take such enforcement action as is appropriate and authorized under the *Act*.

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.