



**Docket: LR22034**  
**Order: LR22-34**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Lindsay Cameron, against Order LD22-135 issued by the Director of Residential Rental Property and dated May 9, 2022.

**BEFORE THE COMMISSION ON** Friday, June 24, 2022.

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

Hearing Date: Monday, June 20, 2022

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# ORDER

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(Sgd.) Susan Jefferson  
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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

Lindsay Cameron entered into a written rental agreement for premises located at 38 Connolly Street, Charlottetown, PE (the “Premises”), from Parkdale-Sherwood Lions Club (the “Lions Club”) as of February 1, 2015. Rent for the Premises is \$960 per month and due and payable on the first day of the month.

On March 10, 2022, the Lions Club served Ms. Cameron with a Notice of Termination by Lessor of Rental Agreement (“Form 4”) under clause 15(1)(d) of the *Act*. The effective date of the Form 4 is June 30, 2022.

On March 14, 2022, Ms. Cameron filed with the Director an Application to Set Aside the Notice of Termination (the “Application”)

The Application was heard by the Director on April 25, 2022, and in Order LD22-135 dated May 9, 2022, the Director found that the Form 4 was valid and ordered that:

- (1) *The Tenant and all occupants must vacate the Premises by the **later** of:*
  - a) *11:59 p.m. on June 30, 2022; or*
  - b) *One month from the date the Landlord serves the Tenant with a copy of a demolition permit for the Premises approved by the City of Charlottetown.*
- (2) *A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Act.*
- (3) *The Landlord will provide the Rental Office with a copy of the demolition permit for the Premises approved by the City of Charlottetown within two weeks of the date that the permit is received by the Landlord*
- (4) *The Landlord will provide the Rental Office with written confirmation that the Premises have been demolished within two weeks of completion of the demolition.*

Ms. Cameron appealed.

The Commission heard the appeal on June 20, 2022, by way of telephone conference call. Ms. Cameron participated and was represented by Jonathan Greenan as counsel. Connor Kelly was called as a witness. Barry Stewart and Keith Merry attended and participated on behalf of the Lions Club.

## Disposition

The appeal is denied and Director’s Order LD22-135 is varied as a result of new evidence before the Commission.

## The Issue

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

## Analysis

Appeals to the Commission under the *Act* are by way of re-hearings (subsection 26(1)), and Ms. Cameron has a statutory right to appeal the decision of the Director.

Ms. Cameron and her counsel argued on appeal that the Lions Club had acted in bad faith, contrary to the requirements of subsection 15(1) of the *Act*. She testified about her experiences with various property managers over the course of her tenancy, about the needed repairs to the Premises, about the repairs she and her father conducted over the years. She recounted having an inspector from the Environmental Health division of the Department of Health and Wellness conduct an inspection of the Premises. She also testified about how difficult it was to receive the Form 4 after having been asked only a few weeks prior to provide rent cheques for an additional year.

Ms. Cameron also testified that she felt she did not get a fair hearing before the Director, alleging that the Hearing Officer did not properly consider her evidence, and further, that he took an active role in assisting the Lions Club in making their case. Beyond this assertion, Ms. Cameron did not elaborate or provide evidence to show bias or other impropriety on behalf of the Hearing Officer.

Ms. Cameron testified that she has now moved out of the Premises, having found alternate accommodations. She further testified that the reason she chose to exercise her statutory right of appeal was because she “wanted it out there”. She stated that she feels “as a community humanitarian organization that [the Lions Club] should be held accountable publically for the decisions that they have made.”

Ms. Cameron fundamentally disagrees with the business decision taken by the Lions Club to demolish the Premises and replace it with parking. She has not, however, established that the Lions Club was acting in bad faith in serving the Form 4.

Mr. Stewart outlined the history of the Lions Club’s ownership of the Premises. He testified that the properties were originally purchased years ago with the intention of converting both 36 and 38 Connolly Street into parking. He stated that the decision as to the disposition of the Premises did not ever lay with one individual; these are decisions that are made by the Lions Club’s membership.

Mr. Stewart referenced several excerpts from minutes of Regular and Board meetings for the Lions Club (Exhibit 25), which describe ongoing maintenance issues with the Premises dating back to at least 2018. In December 2021, there was discussion about whether the Lions Club insurer would continue to insure the properties unless updates were made. In February 2022, the Lions Club acquired insurance on the Premises through a different provider on an “as is” basis, albeit for a higher rate. Mr. Stewart testified that the new rate was time limited and came with the understanding that significant repairs would likely be needed in future to continue insuring the Premises. Mr. Stewart further testified that the Lions Club had offered to gift the Premises to Habitat for Humanity, and would assist in having it moved. He advised Habitat for Humanity turned down the offer, citing the condition of the Premises.

The minutes show that by March 2022, the Lions Club was aware that Ms. Cameron had contacted Environmental Health, and the Club already knew that a significant number of repairs would be required to get the properties into a long-term insurable state. The Board

therefore recommended that the buildings be demolished and converted to parking space for clients of Lions Club bingo operations, as well as for storage of other vehicles owned by the Club. The need for vehicle storage emerged, according to Mr. Stewart, due to the Lions Club's plan to construct a multi-unit affordable housing complex for seniors.

Counsel for Ms. Cameron challenged Mr. Stewart on cross examination about the wisdom of converting valuable land to parking. He questioned whether additional parking was indeed required. Ms. Cameron further opined that it was unconscionable for a service organization to be removing housing during a housing crisis.

These considerations do not assist in the analysis of whether the Lions Club was acting in good faith. It is not the Commission's role in this appeal to evaluate the wisdom of the business decisions taken by the Lions Club. The Commission is tasked with hearing this appeal, and determining whether the Form 4 was served in good faith.

The evidence before the Commission is that the Lions Club made a business decision to demolish the Premises, which it may do as of right. Ms. Cameron was properly served with the Form 4, and though it was upsetting to her to receive it, the Lions Club met the statutory requirements of notice. Ms. Cameron has not established that the Lions Club is taking this action as a means of retribution against her, or for any other ulterior motive. The Lions Club provided evidence to the Commission as to the reasons for its decision to demolish the Premises, and while she may disagree with these reasons, Ms. Cameron did not adduce evidence of motive other than that the Lions Club does not wish to incur additional expenses relating to the upkeep of the Premises on a go-forward basis.

The Commission acknowledges that Ms. Cameron has a right to appeal an order of the Director, and that she was still residing in the Premises when she filed her Notice of Appeal. However, the Commission learned at the hearing of the appeal that she had moved out of the Premises sometime prior to the hearing, and further, that she placed a stop payment order on her June 2022 rent cheque. The Commission has also been made aware that Ms. Cameron has advised the Lions Club in writing - before the issuance of this Order - that she "will be completely vacated" of the Premises by June 30, 2022, as per the original date on the Form 4.

The Commission notes that Ms. Cameron indicated at the end of the lengthy hearing that she "doesn't really expect a remedy". Mr. Greenan acknowledged that the only remedy available to Ms. Cameron was for the Commission to overturn the Director's Order, thereby continuing the rental agreement. This, even though Ms. Cameron has now moved to another location. These submissions leave the Commission with concerns as to the wisdom of Ms. Cameron and her counsel in pursuing an appeal for the sole purpose of "wanting it out there".

It is improper for Ms. Cameron and her counsel to waste the time of both the Commission and the Lions Club in what appears to be a mere attempt to publicly shame her former landlord. The Commission does not have authority to order costs in appeals, but takes notice that in other jurisdictions an appeal of this nature would likely attract an award of costs against the appellant.

The appeal is therefore denied, and Order LD22-135 is varied as set out below.

Ms. Cameron remains responsible to pay rent to the Lions Club for the month of June, 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, but given new evidence Director’s Order LD22-135 is varied to the following:
2. The Tenant is responsible for payment of rent for the month of June 2022, pro-rated based on when she surrenders possession to the Landlord.
3. The Tenant and all occupants must vacate the Premises not later than 11:59 p.m. on June 30, 2022.
4. The Landlord shall not be required to serve the Tenant with a copy of the demolition permit.
5. The Landlord shall provide a copy of the demolition permit to the Rental Office.
6. The Landlord shall provide the Rental Office with written confirmation of the demolition of the Premises within two (2) weeks of completion of the demolition.
7. A certified copy of this Order may be filed in the Supreme Court of Prince Edward Island and enforced by Sheriff Services as permitted by the *Act*.

**DATED** at Charlottetown, Prince Edward Island, the 24<sup>th</sup> day of June, 2022.

**BY THE COMMISSION:**

(sgd. Erin T. Mitchell)

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Panel Chair - Erin T. Mitchell, Commissioner

(sgd. M. Douglas Clow)

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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.