



Docket: LR22051

Order: LR22-41

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Diane Vanneste against Order LD22-204 issued by the Director of Residential Rental Property and dated June 21, 2022.

BEFORE THE COMMISSION ON Thursday, July 21, 2022.

Panel Chair - Erin T. Mitchell, Commissioner

M. Douglas Clow, Vice-Chair

Hearing Date: Wednesday, July 20, 2022

ORDER

Compared and Certified a True
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(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

This appeal asks the question of whether the Director of Residential Rental Property (the “Director”) erred in terminating a rental agreement due to the persistent and habitual late payment of rent by a tenant.

Background

Diane Vanneste (“Ms. Vanneste”) rents one-half of a duplex located at 79 South Main Street, Mount Stewart, PE (the “Premises”), from Mount Stewart Housing Authority (the “Housing Authority”). Rent is subsidized with Ms. Vanneste paying the amount of \$720.50 monthly for a portion of the relevant period and \$260 monthly for the balance. Rent is due on the first day of the month.

On May 20, 2022, the Housing Authority filed with the Director an application requesting an order terminating the rental agreement alleging Ms. Vanneste is persistently and habitually late paying rent (the “Application”). Included in the Application were a series of Notices of Termination (“Form 4s”) directed to Ms. Vanneste and signed by a representative of the Housing Authority.

In Order LD22-204 dated June 21, 2022, the Director ordered that Ms. Vanneste, and all occupants, must vacate the Premises by 11:59 p.m. on June 30, 2022.

Ms. Vanneste appealed.

The appeal was heard on July 20, 2022, by way of telephone conference call. The Housing Authority was represented by David Harper; Ms. Vanneste appeared on her own behalf.

Disposition

The appeal is denied.

The Issue

Did the Director correctly determine that the Application was valid?

Analysis

Ms. Vanneste was forthright in her testimony before the Commission in acknowledging that from time to time she has been late in making her rent payments over the course of her tenancy. She testified that she has always made efforts to rectify any arrears, and that she has been a good tenant otherwise. She explained the reasons behind her recent difficulties in making her rent payments on time, and that she hoped the Housing Authority would exercise some leniency and allow her to stay in the Premises.

Mr. Harper, on behalf of the Housing Authority, testified that he personally agreed that, other than issues of late payment of rent, Ms. Vanneste was not a bad tenant. He explained, however, that the Board of the Housing Authority had voted and made the decision to proceed with the Application.

The Commission considered the documentary evidence submitted by the parties, as well as the oral testimony at the appeal. The Commission agrees with Director's Order LD22-204 and finds that the Housing Authority has established that Ms. Vanneste has been habitually late in the payment of rent since December 2021. As such, termination of the rental agreement is warranted pursuant to subsection 13(3) of the *Act*.

The Commission varies Director's Order LD22-204 such that the rental agreement between the parties shall terminate effective 11:59 p.m. on July 31, 2022. In all other respects, Order LD22-204 is 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. Order LD22-204 is varied such that the rental agreement between the parties shall terminate effective 11:59 p.m. on July 31, 2022.
3. In all other respects Order LD22-204 is confirmed.

DATED at Charlottetown, Prince Edward Island, Thursday, July 21, 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.

