



Docket: LR22048

Order: LR22-45

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Marie Pangan and Ranz Par against Order LD22-225 issued by the Director of Residential Rental Property and dated June 30, 2022.

BEFORE THE COMMISSION ON Thursday, July 21, 2022.

Panel Chair - Erin T. Mitchell, Commissioner

M. Douglas Clow, Vice-Chair

Hearing Date: Thursday, July 21, 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 notice was invalid.

Background

Marie Pangan and Ranz Par (“the Landlords”) rent a room located at 39 Melody Lane, Charlottetown, PE (the “Premises”), to Emmanuel Okunade (“Mr. Okunade”). Rent for the Premises is \$650 per month.

On May 15, 2022, a representative of the Landlords served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Mr. Okunade, citing that they want possession of the Premises for their parents pursuant to clause 15(1)(a) of the *Act* and they want to renovate the Premises pursuant to clause 15(1)(c) of the *Act*.

On May 26, 2022, Mr. Okunade filed with the Director an Application by Lessee to Set Aside Notice of Termination.

In Order LD22-225 dated June 30, 2022, the Director ordered that the Form 4 was invalid and that the rental agreement continues to be in full force and effect.

The Landlords appealed.

The Commission heard the appeal on July 21, 2022, by way of telephone conference call. Marie Pangan appeared on behalf of the Landlords. Mr. Okunade appeared on his own behalf.

Disposition

The appeal is denied. Order LR22-225 is confirmed.

The Issue

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

Analysis

Subsection 15(1) of the *Act* reads:

15. Personal use, renovations, etc.

(1) Where the lessor in good faith seeks to

(a) have possession of the premises for occupation by himself, his spouse, children or parents, or the parents of his spouse;

(b) convert the premises to a use other than residential use;

(c) renovate the premises where the nature of the renovations is advised to the lessee and are such that the renovations cannot be carried out while the lessee occupies the premises;

(d) demolish the premises,

the lessor may serve the lessee with a notice of termination to be effective not less than two months after it is served.

[Emphasis added]

The evidence before the Commission is that Ms. Pangan's mother and son are soon travelling from the Philippines to Prince Edward Island. Ms. Pangan provided copies of their flight itineraries, and testified that she wishes them to stay in the Premises when they arrive. She also testified that she wishes to make some improvements to the Premises, and has had conversations with some friends of hers who do construction about the work to be done.

The onus is on the Landlords to establish that they, in good faith, want possession of the Premises for occupation by Ms. Pangan's mother and son. Ms. Pangan testified that her mother is not moving to PEI, but rather is visiting, albeit for an indeterminate period of time. Her evidence regarding her son is that he will also live in Prince Edward Island for an indeterminate period of time, while he finishes some online course work.

Though the Commission does not doubt that Ms. Pangan's family members are coming to Prince Edward Island, the Commission finds that the evidence does not support a finding that possession is being sought for "occupation", as contemplated by the *Act*. Though Ms. Pangan's family will require accommodations while in Prince Edward Island, they are not moving here, and their stay is indeterminate in nature. The Commission finds that this evidence does not justify termination of the rental agreement.

Regarding the claim that the Landlords wish to renovate the Premises, the Commission notes that evictions for renovations are currently prohibited pursuant to subsection 15(4) of the *Act*. There is no evidence that the circumstances fall into one of the exceptions to this prohibition provided in subsection 15(6). As such, this ground for termination also fails.

For these reasons the Commission finds that the rental agreement 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 denied.
2. Director's Order LD22-225 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.