



Docket: LR22075
Order: LR23-02

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Glenroy Simmonds, against Order LD22-430 issued by the Director of Residential Rental Property, dated December 6, 2022.

BEFORE THE COMMISSION ON Wednesday, January 18, 2023.

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

Hearing Date: Tuesday, January 17, 2023

ORDER

Compared and Certified a True
Copy

(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 valid.

BACKGROUND

Glenroy Simmonds (“Mr. Simmonds”) rents Apartment 6, 18 Karla Court, Cornwall, PE (the “Premises”), from Mark Landrigan (“Mr. Landrigan”).

On November 8, 2022, Mr. Simmonds was served with a Notice of Termination by Lessor of Rental Agreement for breaches of s. 14.(1)(a), s. 14.(1)(b) and s. 14.(1)(e) of the *Act* (the “Form 4”). The effective date of the Form 4 was December 8, 2022.

On November 21, 2022, Mr. Simmonds filed with the Director a set aside application (the “Form 6”).

In Order LD22-430 dated December 6, 2022, the Director found that the breach of s. 14.(1)(e) set out in the Form 4 was valid, and ordered that the rental agreement be terminated effective December 19, 2022 at 11:59 p.m.

Mr. Simmonds appealed the Order.

The Commission heard the appeal by way of telephone conference call on January 17, 2023. Both Mr. Simmonds and Mr. Landrigan participated.

Disposition

The appeal is dismissed and Director’s Order LD22-430 is confirmed.

The Issue

Did the Director correctly determine that the Notice of Termination dated November 8, 2022 was valid?

Analysis

Mr. Simmonds testified that he believed that his evidence had not been accepted and he does not feel he was fairly treated. He stated that the blue drum did not contain oil. He submitted that he only had one tire and that the tires and engine parts in the parking area belong to others. He suggested that all the tenants get together to clean it up with the help of Mr. Landrigan’s truck and trailer. He submitted that he now parks his commercial truck on the cul de sac rather than the parking lot. He submitted that he is not the only truck driver that lives at that building. He stated that the water issues were due to a leaking wash tub that was removed and not replaced. He also stated that the outside tap could cause water issues if someone did not securely tighten a hose to it.

Mr. Landrigan testified that there were several vehicles parked in the parking lot with expired inspection stickers and not currently registered. He noted that the wash tub was removed 3 or 4 years ago. The water leakage that entered the basement apartment was caused by a break in the line for an outside tap. The tap handle was then removed to prevent it being used but Mr. Simmonds used channel-lock pliers to use it. Mr. Landrigan’s plumber then had to cut and cap the pipe to prevent its use. Mr. Landrigan said that the commercial truck is parked at the cul de sac by day and moved into the parking lot at night.

The Commission notes that Mr. Simmonds did not file any new evidence as part of his appeal.

In an email dated January 5, 2023, Mr. Landrigan noted:

In relation to the first email Glenn Roy is still parking in the parking lot as of January 4th, 2023 at roughly around 6:40 pm when picture was taken. I added photos to paint a clearer picture of the damages being done by his transport truck. In some of the photos opposite of 18 Karla Court building, you can see where there is less damage, but in the photo where are you see his truck parked, the straight line in front and behind is where most damage is occurring at.

The Commission finds that there is no evidence to persuade the Commission that the Director erred in Order LD22-430. The appeal was filed on December 15, 2022 and as of January 4, 2023, evidence demonstrates a continuation of at least some of the conduct complained of. Accordingly, the appeal is dismissed and Director's Order LD22-430 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 dismissed.
2. Director's Order LD22-430 is confirmed.

DATED at Charlottetown, Prince Edward Island, this 18th day of January, 2023.

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.