



Docket: LR23005

Order: LR23-06

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by John Jarvis against Order LD23-031 issued by the Director of Residential Rental Property and dated January 31, 2023.

BEFORE THE COMMISSION ON Thursday,
February 16, 2023

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

Hearing Date: Wednesday, February 15, 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 and allowing the early termination of a rental agreement.

BACKGROUND

John Jarvis (“Mr. Jarvis”) entered into a written fixed term rental agreement for premises located at 39 Passmore Street, Apartment #2, Charlottetown, PE (the “Premises”) with Rev. Ed Keunecke (“Rev. Keunecke”). Rent for the Premises is \$1,200 per month with a security deposit paid for the same amount.

On January 16, 2023, Rev. Keunecke filed with the Director an application for earlier termination of a rental agreement pursuant to subsection 14.(3) of the *Act* (the “Application”). Included with the Application was a termination notice dated January 10, 2023 (the “Form 4”) citing breaches of subsections 14.(1)(a) and 14.(1)(e) of the *Act*. The effective date of the Form 4 is February 10, 2023.

On January 19, 2023, Mr. Jarvis filed a set aside application (the “Set Aside Application”).

A hearing before the Director was held on January 27, 2023 to hear both Applications.

In Order LD23-031 dated January 31, 2023, the Director concluded that the Form 4 was valid and allowed the Application. The Director ordered that the rental agreement between the parties be terminated and Mr. Jarvis must vacate the Premises by 5:00 p.m. on February 6, 2022.

Mr. Jarvis filed an appeal.

The Commission heard the appeal by way of telephone conference call on February 15, 2023. Mr. Jarvis, Rev. Keunecke and Kennedy Hill (“Ms. Hill”) testified at the hearing.

Disposition

The appeal is dismissed and Director’s Order LD23-031 is confirmed.

The Issue

Did the Director correctly determine that the notice of termination dated January 10, 2023 and the application for earlier termination were valid?

Analysis

Mr. Jarvis testified on his own behalf, and denied the various allegations made against him by Rev. Keunecke and Ms. Hill. With respect to an incident that occurred at the Premises on December 28, 2022, Mr. Jarvis stated his actions were in self-defense.

Rev. Keunecke summarized his concerns as set out in documents before the Director and the Commission. Ms. Hill, an employee of Rev. Keunecke and a resident of the building in which the Premises is located, described various past interactions with Mr. Jarvis.

The Commission had before it documentary evidence to support the claims made by Rev. Keunecke and Ms. Hill, including two letters from Charlottetown Police Services, dated January 11, 2023 and January 18, 2023, detailing past attendances at the Premises.

The Commission finds, on the civil standard of a balance of probabilities, that there is sufficient evidence to find a breach of clauses 14.(1)(a) and 14.(1)(e) of the Act.

Accordingly, the Commission agrees with the findings of the Director, dismisses the appeal and confirms Director's Order LD23-031.

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 LD23-031 is confirmed.

DATED at Charlottetown, Prince Edward Island, Thursday, February 16, 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.