



**Docket: LR23006**  
**Order: LR23-07**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Billy Thorne and Tara Bjelan, against Order LD23-038 issued by the Director of Residential Rental Property, dated February 6, 2023.

**BEFORE THE COMMISSION ON** Tuesday, February 21, 2023.

Panel Chair – J. Scott MacKenzie, K.C., Chair  
M. Douglas Clow, Vice-Chair

Hearing Date: Tuesday, February 21, 2023

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# 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 that rent is due and owing.

## **BACKGROUND**

Billy Thorne (“Mr. Thorne”) and Tara Bjelan (“Ms. Bjelan”) (the “Tenants”) rent Apartment 102, 63 Russell Street, Summerside, PE (the “Premises”), from Guangming Holdings Inc. (the “Landlord”) commencing on April 1, 2021. Rent for the Premises is \$1300 per month, which is due and payable on the first day of the month.

On December 17, 2022, the Tenants were served with a Notice of Termination by Lessor of Rental Agreement for breach of s. 13 of the *Act* (the “Notice of Termination”). The effective date of the Notice of Termination was January 6, 2023.

On January 9, 2023, the Landlord filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (the “Application”) seeking: an order finding that rent is owed; an amount found to be owed be paid; possession of the residential premises be surrendered to the lessor; and directing the sheriff to put the Landlord in possession of the Premises.

In Order LD23-038 dated February 6, 2023, the Director found that both the Notice of Termination and Application were valid, and ordered that the rental agreement be terminated effective 5:00 p.m. on February 13, 2023, and that the Tenants pay the Landlord the outstanding rent owing in the amount of \$2,600.00 on or before March 13, 2023.

The Tenants appealed the Order.

The Commission heard the appeal by way of telephone conference call on February 21, 2023. Ms. Bjelan was present for the Tenants. William Li and Yilan Zhou were present for the Landlord.

## **Disposition**

The appeal is dismissed and Director’s Order LD23-038 is confirmed; subject to a variation in both the termination date and the total rent owing.

## **The Issue**

Did the Director correctly determine that the Notice of Termination dated December 17, 2022, and the Application were valid?

## **Analysis**

Ms. Bjelan stated in the Notice of Appeal that she wanted Director’s Order LD23-038 changed to “give us until the end of the month to find something ...”. At the hearing, Ms. Bjelan stated that the Tenants were not contesting the Notice of Termination, but wanted more time to be able to find a new home. She would move out by March 1, 2023, if they were able to find a new home.

The Landlord's representatives stated that they sought possession of the Premises no later than February 25, 2023. They also stated that no rent was paid for December, 2022, January, 2023 and February, 2023, resulting in a total rent owing of \$3,900.00.

The Commission agrees with the findings of the Director that the Tenants did not pay the outstanding rent within 10 days of service of the Notice of Termination and further; the Tenants did not file an application for a set aside of the Notice of Termination. Accordingly, the Tenants are deemed to have accepted the termination of the rental agreement.

The Commission has determined that the tenants shall be permitted further time to vacate the premises and also to allow the Landlord rent for the month of February, 2023. The Commission varies Director's Order LD23-038 as follows:

- a. The rental agreement between the parties for the Premises shall terminate effective 11:59 p.m. on February 28, 2023. The tenants shall vacate the premises by this time and date.
- b. The Tenants shall pay the Landlord the outstanding rent in the amount of \$3,900.00, on or before March 31, 2023.

**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, and Director's Order LD23-038 is confirmed, subject to the following variations:
  - a. The rental agreement between the parties for the Premises shall terminate effective 11:59 p.m. on February 28, 2023. The Tenants shall vacate the premises by this time and date.
  - b. The Tenants shall pay the Landlord the outstanding rent in the amount of \$3,900.00, on or before March 31, 2023.
2. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

**DATED** at Charlottetown, Prince Edward Island, this 21st day of February, 2023.

**BY THE COMMISSION:**

(sgd. J. Scott MacKenzie)

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Panel Chair J. Scott MacKenzie, K.C., Chair

(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.