



Docket: LR23025

Order: LR23-18

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Sarah Bauman against Order LD23-152 issued by the Director of Residential Rental Property and dated April 20, 2023.

BEFORE THE COMMISSION ON Monday, June 5, 2023

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

M. Douglas Clow, Vice-Chair

Hearing Date: Thursday, May 25, 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

Sarah Bauman (“Ms. Bauman”) entered into a rental agreement for premises located at 161 Arcona Street, Apartment #5, Summerside, PE (the “Premises”) with Adam Casey and Ronnie Casey (the “Landlords”). Rent for the Premises is \$650 per month with a security deposit paid in the amount of \$600.00.

On March 24, 2023, Ms. Bauman filed with the Director a set aside application (“Form 6”). Attached to the Form 6 was a termination notice dated March 17, 2023 (the “Form 4”) citing breaches of subsections 13, 14.(1)(a) and 14.(1)(e) of the Act. The effective date of the Form 4 was April 7, 2023.

A hearing before the Director was held on April 18, 2023.

In Order LD23-152 dated April 20, 2023, the Director concluded that the Form 4 was valid with respect to breaches of subsections 14.(1) (a) and 14.(1)(e) and ordered that the rental agreement between the parties be terminated and that Ms. Bauman must vacate the Premises by 11:59 p.m. on April 28, 2023.

Ms. Bauman filed an appeal.

The Commission heard the appeal by way of telephone conference call on May 25, 2023. Ms. Bauman testified at the hearing. Adam Casey (“Mr. Casey”) represented the Landlords and testified at the hearing.

Disposition

During the course of the hearing, the parties reached an agreement under which the rental agreement will continue with conditions. The Commission agreed that it would issue an Order formalizing that agreement.

Analysis

Ms. Bauman testified that she had a guest who had stayed at her apartment in the past and this guest was responsible for the behavior which led to complaints from other tenants which were directed to the Landlords. She stated that, shortly after receiving the Form 4, she advised the guest that he was no longer allowed to come to the Premises.

Mr. Casey testified at the hearing that there have been no complaints made to him by other tenants since April 1, 2023. He also testified that Ms. Bauman’s rent is currently fully paid including the month of May 2023. Mr. Casey then advised the Commission that he would allow the rental agreement to continue if the guest was barred from the premises and the rent paid on time.

During the course of the hearing, the parties reached an agreement that the rental agreement would continue, **subject to the following conditions:**

- A. Ms. Bauman shall not invite or permit Christopher Raymond O'Halloran on the Premises at any time; and
- B. Ms. Bauman shall pay her rent in full and on time on the first day of each month;

If Ms. Bauman fails to comply with the conditions agreed to between the parties for the continuation of the rental agreement, then the Landlords may apply to the Director for an Order ending the tenancy immediately, for cause, and granting the landlord an order of possession in respect of the rental unit, in accordance with the provisions of the *Residential Tenancy Act*.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act*, and the *Rental of Residential Property Act*;

IT IS ORDERED THAT

1. **By agreement of the parties, the rental agreement will continue, subject to the following conditions:**
 - A. **Ms. Bauman shall not invite or permit Christopher Raymond O'Halloran on the Premises at any time;**
 - B. **Ms. Bauman shall pay her rent in full and on time on the first day of each month.**
2. **In the event Ms. Bauman fails to comply with the conditions agreed to between the parties, as set out in paragraph 1, then the Landlords may apply to the Director for an Order ending the tenancy immediately in accordance with the provisions of the *Residential Tenancy Act*.**

DATED at Charlottetown, Prince Edward Island, on Monday, June 5, 2023.

BY THE COMMISSION:

(sgd. J. Scott MacKenzie, K.C.)

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

(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.