



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: June 12, 2023

Docket: LR23032

Type: Rental Appeal

INDEXED AS: Yan Lu v. Charles Murphy

Order No: LR23-22

BETWEEN:

Yan Lu

Appellant

AND:

Charles Murphy

Respondent

ORDER

Panel Members:

J. Scott MacKenzie, K.C., Chair
M. Douglas Clow, Vice-Chair
Murray MacPherson,
Commissioner

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

1. INTRODUCTION

1. This appeal was heard by the Commission on June 9, 2023 and asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in finding that an Order seeking repairs and a return of rent was unwarranted.

2. BACKGROUND

2. On or about September 2020, Yan Lu (the “Tenant”) entered into a rental agreement for the premises located at 13 MacArthur Drive, Charlottetown, PE (the “Premises”) with Charles Murphy (the “Landlord”). Rent for the Premises is \$1700.00 per month with a security deposit paid of \$1700.00.
3. On March 13, 2023, the Tenant filed with the Director an application seeking repairs and a return of rent in an unspecified amount (the “Application”).
4. In Order LD23-197 dated May 10, 2023 the Director denied the Application.
5. The Tenant appealed the Order.
6. The Commission heard the appeal by way of telephone conference call on June 9, 2023. The Tenant was present. The Landlord was represented by Aldo DiBacco (“Mr. DiBacco”).

3. DISPOSITION

7. The appeal is dismissed and Director’s Order LD23-197 is confirmed.

4. ANALYSIS

8. The Tenant testified that repairs had been ordered months ago but the work still is not complete. He stated that this is his second application to get the work done. He testified that he was not the cause of the damage. He is frustrated by the fact that a penalty may be issued against a lessor in other Provinces but not in Prince Edward Island. He stated that he has not been able to use that toilet and that shower for many months. He also stated that he has incurred substantial legal fees.
9. Mr. DiBacco testified that the Premises contain 4 bathrooms of which the Tenant is given access to 2 full bathrooms and one-half bathroom or powder room (sink and toilet, no shower or bathtub). Accordingly, Mr. DiBacco explained that the Tenant has full use of one bathroom plus one-half bathroom while the bathroom in question is out of service. Mr. DiBacco explained that the insurance company did accept the claim for the toilet issue and the restoration contractor has been delayed and has been working on the repairs in stages as they are prioritizing repair work in the aftermath of tropical storm Fiona. As Mr. DiBacco stated, the restoration company is “squeezing us in”.

10. Having reviewed all documentation, the video submitted by the Tenant and hearing the testimony of the Tenant and Mr. DiBacco, the Commission agrees with the Director's decision in Order LD23-197.
11. The Tenant still has full use of one bathroom plus a half bathroom. The evidence indicates that the Landlord has been making best efforts to repair and restore the bathroom which has been out of service. The evidence contains communication from the Landlord to the insurance company and to the restoration contractor to remind them of the importance of the matter and to attempt to spur them along. Delays in restoring an additional bathroom are to be expected as tradespeople, contractors and restoration companies prioritize work in the aftermath of post-tropical storm Fiona.

5. CONCLUSION

12. The Act makes no provision for penalties or reimbursement of legal fees. Full bathroom services are still available within the Premises. The Landlord is making best efforts to return the additional bathroom to service. Accordingly, the Commission agrees with the Director that the Tenant's most recent application ordering repairs and seeking a return of rent is denied.

IT IS ORDERED THAT

1. **The appeal is dismissed.**
2. **Director's Order LD23-197 is confirmed.**

DATED at Charlottetown, Prince Edward Island, Monday, June 12, 2023.

BY THE COMMISSION:

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

J. Scott MacKenzie, K.C., Chair

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(sgd. Murray MacPherson)

Murray MacPherson, Commissioner

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.