



Date Issued: June 15, 2023
Docket: LR23030
Type: Rental Appeal

INDEXED AS: Emily Myers v. Calvin Chaisson
Order No: LR23-24

BETWEEN:

Emily Myers

Appellant

AND:

Calvin Chaisson

Respondent

ORDER

Panel Members:

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

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 14, 2023, and asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in denying a finding that a return of rent was unwarranted.

2. BACKGROUND

2. In February, 2021, Emily Myers (the “Tenant”) entered into a rental agreement for one-half of a duplex located at 5 Spring Street, Charlottetown, PE (the “Premises”), with Calvin Chaisson (the “Landlord”). Rent for the Premises is \$1,250 per month with a security deposit paid of \$500.00.

3. DISPOSITION

3. On March 20, 2023, the Tenant filed with the Director an application seeking repairs and a return of rent in the amount of \$3,750.00 (the “Application”).
4. On March 24, 2023, the Tenant filed with the Director a set aside application (the “Set Aside Application”). The Set Aside Application was filed to dispute a termination notice dated March 25, 2023, with an effective date of May 23, 2023, (the “Notice”). The reason for the Notice was that the Landlord wanted possession of the Premises for a family member.
5. In Order LD23-1162 dated April 25, 2023 the Director: denied the Application; ordered the landlord to complete necessary repairs on or before May 31, 2023; allowed the Set Aside Application; and ordered that the rental agreement continue in full force and effect.
6. The Tenant appealed the Order as it relates to the dismissal of the return of rent application. As this matter commenced with the service of the Application, which was filed prior to April 8, 2023, the Rental of Residential Property Act, RSPEI 1988, Cap. R-13.1 (the “Act”) applies to this appeal.
7. The Commission heard the appeal on June 14, 2023. The Tenant participated, along with her witnesses Kayleigh Tawil (“Ms. Tawil”) and Louie Myers (“Mr. Myers”). The Landlord also participated.

4. ANALYSIS

8. The Tenant detailed a lengthily list of problems and deficiencies with the premises along with her efforts to get the Landlord to address these issues. She noted that initially the landlord-tenant relationship was good; however, it broke down in November, 2022, after she contacted Health and Wellness - Environmental Health (“Environmental Health”) about her concerns. Various officers at Environmental Health inspected the Premises, wrote letters and detailed work that needed to be done. Applications were also filed with the Director. The Tenant acknowledged, under questioning from the Commission, that, as of

last week, all the work has been done although she is not satisfied with the sealing done with the bathtub and tub-wall surround.

9. Mr. Myers testified that the Tenant is his daughter. He stated that the Tenant's quality of life deteriorated starting in November, 2022.
10. Ms. Tawil testified that the Landlord told the Tenant and herself to deal with the pest control contractor.
11. The Landlord went step-by-step through the various complaints, presenting a timeline of the concerns and when they were addressed. He submitted that all repairs ordered by Director's Order LD23-162 are now complete.
12. The Commission finds that while some issues were attended to quite promptly, resolution of other issues were delayed due to a combination of factors – such as availability of skilled tradespeople and necessary cancellations. These types of problems in getting repair work done are, unfortunately, common in the province. It is common knowledge that there is a shortage of skilled tradespersons available to do work resulting in delays. These delays have been greatly increased as a result of the significant damage done by Hurricane Fiona. The public, in general, is faced with these delays everyday. Noting this fact, the evidence is clear that the Landlord attended to the complaints and repairs in as timely a manner as the current circumstances permit. The Premises are an older building and the evidence suggests that the Tenant and her co-occupants lived in the Premises continuously while the work was being done.
13. In Director's Order LD23-162, the Rental Property Officer stated:

The Tenant raised concerns with the condition of the Premises and neglect shown by the Landlord to repair and/or remedy the concerns. The Officer finds that based on the totality of the evidence that the Premises fall below what is expected from subsection 6.1 of the Act. With that being said, the Officer also finds that the Landlord has demonstrated that he has taken appropriate steps to improve and repair the Premises. With taking these conclusions into consideration, and that the Tenant has not suffered financial loss and continued to live in the Premises (see Commission Order LR22-29), the Officer finds that he is unable to justify a return of rent remedy at this time.

14. The Commission agrees with and adopts the reasoning set out in Director's Order LD23-162 and notes that the repairs and improvements detailed in said Order have been completed and that a return of rent is not justified.
15. Accordingly, the Commission dismisses the appeal and confirms Director's Order LD23-162.

5. CONCLUSION

16. The Commission has determined that the Director correctly denied a return of rent.

IT IS ORDERED THAT

1. **The appeal is dismissed.**
2. **Director’s Order LD23-162 is confirmed.**

DATED at Charlottetown, Prince Edward Island, Thursday, June 15, 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

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.