



LR23035

PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: June 16, 2023

Docket: LR23035

Type: Rental Appeal

INDEXED AS: Kathleen Morrell v. Wayne Ford

Order No: LR23-28

BETWEEN:

Kathleen Morrell

Appellant

AND:

Wayne Ford

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 12, 2023 and asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in finding that the rental agreement should be terminated.

2. BACKGROUND

2. In April 2021, Kathleen Morrell (the “Tenant”), entered into a rental agreement for the premises located at Unit 3, 342 Kilkenny Road, Harrington PE (the “Premises”) with Wayne Ford (the “Landlord”). Rent for the Premises is \$850.00 per month with a security deposit paid of \$850.00. In Director’s Order LD23-194 the Director ordered the termination of that rental agreement effective May 31, 2023, at 5:00 p.m., thus requiring the Tenant and all occupants to vacate the Premises. On May 25, 2023, the tenant filed an appeal with the Commission. The Commission heard the appeal on June 12, 2023, by way of telephone conference call. The Tenant represented herself. The Landlord represented himself and called Nicole Swansburg (“Ms. Swansburg”) and Ken Morgan (“Mr. Morgan”) as witnesses.

3. DISPOSITION

3. The Commission dismisses the appeal and confirms Director’s Order LD23-194 subject to a variation in the termination date.

4. ANALYSIS

4. The Tenant testified that she did not have advanced warning about the Landlord’s concerns. She testified that she dealt with the issues. She testified that some of the damage to the property was there when she first moved in. She testified that other damage was caused by her former partner. She testified that Ms. Swansburg lives three units away. The Tenant feels that she is being “targeted”. She testified that her visitors should not be regulated and she stated that none of the witnesses have photographs of the allegedly offensive behaviour.
5. The Landlord testified that, upon providing the required 24-hour notice, he inspected the Premises in early June, 2023. He testified that the Premises were in a rough state. He described a frying pan stuck to a stove burner like it was welded, holes in the walls covered by pictures, doors taped together. In his words, he felt sick.
6. Ms. Swansburg testified that she is a neighbour living in the next building. Ms. Swansburg testified that she took photos of the outside of the Premises and described offensive behaviour by some of the Tenant’s visitors and the Tenant’s partner, who was present as recently as a June 5, 2023 photo.

7. Mr. Morgan testified that he was over at the Premises on one occasion and described it as a “disgrace”.
8. As the Form 4 Notice of Termination was dated April 5, 2023 and served by taping to the door of the Premises prior to April 8, 2023, the Commission agrees with the Director that the *Rental of Residential Property Act* still applies and not the new *Residential Tenancy Act*.
9. The Commission has carefully reviewed the documents and pictures on file as well as the testimony of the tenant, Landlord and the two witnesses for the Landlord. The Commission finds that there is no evidence which would warrant disturbing the Director’s findings and the termination of the rental agreement. While the Form 4 did set out an incorrect civic address and misspell the Tenant’s name, such errors are of a technical nature and are corrected through other documents and testimony. The Commission finds that the condition of the premises, along with the offensive behaviour of the Tenant’s visitors or co-occupants, warrant a termination of the rental agreement pursuant to subsection 14.(1)(a) and (b) of the *Rental of Residential Property Act*.
10. Accordingly, the Commission hereby terminates the rental agreement, with a new termination date of June 29, 2023 at 5:00 p.m.

5. CONCLUSION

11. The Commission find that the Director correctly terminated the rental agreement.

IT IS ORDERED THAT

1. **The appeal is dismissed.**
2. **Director’s Order LD23-194 is confirmed, subject to a variation in the date and time of termination.**
3. **The rental agreement between the parties shall terminate effective 5:00 p.m. on June 29, 2023.**
4. **A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Rental of Residential Property Act*.**

DATED at Charlottetown, Prince Edward Island, Friday, June 16, 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.