



Date Issued: July 26, 2023
Docket: LR23050
Type: Rental Appeal

INDEXED AS: Minh Tuan Nguyen v. Nasrollah Abbasgholipour
Order No: LR23-35

BETWEEN:

Minh Tuan Nguyen

Appellant

AND:

Nasrollah Abbasgholipour

Respondent

ORDER

Panel Members:

J. Scott MacKenzie, K.C., Chair
Murray MacPherson, Commissioner

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TRUE COPY

JUL 26 2023

The Island Regulatory
and Appeals Commission

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1. INTRODUCTION

1. This appeal was heard by the Commission on July 25, 2023, and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in finding that the rental agreement should be terminated.

2. BACKGROUND

2. On February 13, 2022, Minh Tuan Nguyen (the "Tenant"), entered into a rental agreement for the premises located at 30 Longworth Avenue, Charlottetown, PE (the "Premises") with Nasrollah Abbasgholipour (the "Landlord"). Rent for the Premises is \$1250 per month.
3. On June 2, 2023, the Tenant filed with the Rental Office an application to determine dispute (the "Application"). Attached to the Application was a Landlord Notice of Termination dated May 31, 2023, effective June 30, 2023, (the "Notice") citing breaches of s. 61(f) and (h) of the *Residential Tenancy Act* (the "Act").
4. In Order LD23-311 the Rental Office found that: The Notice was valid; denied the Application; ordered the termination of the rental agreement effective 5:00 p.m. on July 31, 2023; and that the Tenant and all occupants vacate the Premises by that time and date.
5. The Tenant filed an appeal with the Commission.
6. The Commission heard the appeal on July 25, 2023, by way of telephone conference call. The Tenant participated. The Landlord participated along with his son, Saeed A. Gholipour.

3. DISPOSITION

7. The Commission dismisses the appeal. Order LD23-311 is confirmed, subject to a conditional varied termination date.

4. ANALYSIS

8. The facts of this dispute are succinctly set out in the Order of the Director LD23-311. The Landlord's position is that the Tenant caused damage to the bathroom of the Premises by not taking care and as a result the Premises have been damaged well beyond what would be considered reasonable wear and tear. The damage, as a result of water being spilled on the floor and lack of proper use of a shower curtain, is significant and is as outlined in an inspection report by a third-party home inspection service¹. An estimate of \$7,130.00 to repair the water damage is set out in a quote². The Landlord testified that the landlord brought the water issues to the attention of the Tenant on numerous

¹ Exhibit E-11, Inspection Report from HouseMaster, pages 38-46

² Exhibit E-12, Quote dated June 14, 2023, from John Stetson, page 47

occasions by email, text, phone and in person³. The Landlord says that the Tenant did not correct the behavior and water problems from improper use continued. The Landlord provided pictures of the bathroom before the Tenant moved in and after the damage⁴.

9. The Tenant spoke at great length about “electrical shocks in the bathroom” and maintained that the Landlord did not raise the concern about water on the bathroom floor until after the Tenant raised the matter of the electrical shocks. The Tenant said little about the water damage to the bathroom of the Premises.
10. The Landlord testified that the electric shocks were a separate issue from the water on the bathroom floor and that the Landlord had raised the water issue before the Tenant complained of electric shocks. The Landlord stated that the water on the bathroom floor caused substantial damage to the bathroom and ran down through the floor into the basement. The Landlord stated that the water issue was caused by improper use of the shower curtain, improper use of the bidet and failure to use, or use for enough time, the bathroom exhaust fan. The Landlord testified that an electrician checked for shocks and there were none. The Landlord stated that the test device used by the Tenant was very sensitive and would detect a “micro voltage”. The Landlord referred to a check of the electrical system done by a Red Seal Electrician noting that any electrical issues were minor and repaired in May, 2023. He referred to an electrician work report in a bill from a repair service noting “replacement of a GFCI receptacle and that all was good with no shocks.”⁵.
11. The Commission agrees with the findings set out in Order LD23-311.
12. The Commission finds that the bathroom floor water issues were raised by the Landlord before the Tenant raised the alleged electric shock issue. The evidence on file, including an inspector’s report and a quote for repair, support a finding that substantial costly water damage occurred as a result of careless or improper use of the bidet and shower curtain and through insufficient use of the bathroom exhaust fan.
13. The Commission finds that the Tenant has breached clause 61.(1)(f) of the Act, due to unreasonable damage caused by the Tenant, or a person permitted on the residential property by the Tenant, to the bathroom. Accordingly, the Commission finds that the tenancy agreement between the parties shall be terminated.
14. With respect to a termination date, the Commission is prepared to vary Order LD23-311 to provide a termination date and time of August 31, 2023 at 5:00 p.m., conditional on the rent for August, 2023 being paid in full no later than August 1, 2023. In the event the August rent has not been paid by 5:00 p.m. on August 1, 2023, the tenancy agreement is immediately terminated.

³ Exhibit E-9, Series of emails and texts between the parties, pages 27-31

⁴ Exhibit E-7, Series of colour photographs, pages 11-25

⁵ Exhibit E-13, Series of Invoices from Red Sands Properties Inc, pages 48-50

5. CONCLUSION

15. The Commission has dismissed the appeal and the tenancy agreement is terminated with a conditional variation of the termination date depending on whether August, 2023 rent is paid fully and on time.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Order LD23-311 is confirmed and the tenancy agreement between the parties terminated, subject to a possible variation in the termination date.
3. If the Tenant pays August 2023 rent of \$1250.00 in full not later than 5:00 p.m. on August 1, 2023, the tenancy agreement shall continue for the month of August and shall terminate at 5:00 p.m. on August 31, 2023.
4. If the August 2023 rent is not paid as set out in term 3. above, then the tenancy agreement is immediately terminated as of August 1, 2023 at 5:00 p.m.
5. The Tenant and all occupants shall vacate the Premises on or before the termination date and time as set out above.
6. 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, Wednesday, July 26th, 2023.

BY THE COMMISSION:



J. Scott MacKenzie, K.C., Chair & CEO



Murray MacPherson, Commissioner

NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.