



LR23035

PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: August 16, 2023

Docket: LR23063

Type: Rental Appeal

INDEXED AS: Frank Morris and Barb Baker v. King Cause Enterprises Ltd.

Order No: LR23-40

BETWEEN:

Frank Morris and Barb Baker

Appellant

AND:

King Cause Enterprises Ltd.

Respondent

ORDER

Panel Members:

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 August 15, 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. In May 2018, Frank Morris and Barb Baker (the “Tenants”) entered into a fixed-term one-year tenancy agreement which has since converted into a month-to-month agreement for the premises located at 653 Capital Drive, Unit 102, Cornwall, PE (the “Premises”) with King Cause Enterprises Ltd. (the “Landlord”). Rent for the Premises is \$1287 per month due on the first day of the month.
3. On June 27, 2023, the Landlord served the Tenants with an Eviction Notice, with an effective date of July 31, 2023 (the “Notice”). The Notice was served on the Tenants for the following reasons:
 - i. You or someone you have allowed on the property have disturbed or endangered others; and
 - ii. You have failed to comply with a material term of the tenancy agreement.
4. On June 29, 2023, the Tenants filed with the Rental Office an application to determine dispute (the “Application”).
5. In Order LD23-359 the Rental Office found that the Notice was valid and the Application was denied, and ordered that the tenancy agreement between the parties be terminated effective 12:00 p.m. (noon) on August 4, 2023 and that the Tenants and all occupants vacate the Premises by that time and date.
6. The Tenants filed an appeal with the Commission.
7. The Commission heard the appeal on August 15, 2023, by way of telephone conference call. The Tenants, Barb Baker and Frank Morris appeared and represented themselves. The Landlord was represented by Sherry Rolfe.

3. DISPOSITION

8. The Commission dismisses the appeal and confirms Order LD23-359, subject to a revised date for the termination of the tenancy agreement.

4. ANALYSIS

9. The primary reasons given by the Landlord for terminating the tenancy agreement include the improper storage of propane tanks and the behaviour of the Tenants towards other tenants of the building.

10. First, with respect to the issue of the improper storage of the propane tanks, the documentary evidence includes a statement from the North River Fire Department indicating that once the Tenants were advised of the improper storage of the tanks, they complied with the direction to relocate them. The Commission finds that this issue and the evidence provided to support it, on its own, would not be enough to prove there had been a breach of the tenancy agreement sufficient to terminate it.
11. The second reason given by the Landlord for terminating the tenancy agreement was because of complaints received by the Landlord regarding the behaviour of the Tenants towards other tenants of the building.
12. The documentary evidence before the Commission included an email from one tenant (the "Neighbour"), dated June 26, 2023, describing an event where the Tenants insulted her and called her names, resulting in her calling the RCMP. The Neighbour also provided a more detailed, undated account of her other interactions with the Tenants.
13. The Landlord also submitted statements from two other tenants, dated after the Eviction Notice was issued, which outline incidents they experienced with the Tenants.
14. At the hearing, the Representative provided testimony that she has received many complaints about the Tenants and their behaviour towards other tenants of the building. She indicated that four tenants have told her that if the Tenants are allowed to stay, they will be moving out because of the harassment.
15. The Representative also spoke to the fact that the Landlord sought to evict the Tenants in 2021, but instead agreed to let the Tenants stay if they agreed to certain conditions. An email between the parties at that time references tenant complaints and warns that "any verbal or physical abuse to our administration team members in the future are completely unacceptable." The Representative testified that issues arose shortly after this agreement was made and they have been ongoing since that time.
16. With respect to the incident on June 26, 2023, the Representative testified that there was an argument between one of the Tenants and the Neighbour, and that the police were called as a result.
17. In response, the Tenants provided little direct evidence to refute the allegations with respect to their behaviour toward the other tenants. At the hearing, the Tenants provided some testimony to disagree with the characterization of their behaviour; however, one Tenant did admit that she "lost it" at the Neighbour in the parking lot over the June 26, 2023, incident.
18. The Commission has reviewed the documents and evidence submitted by the parties and heard their testimony with respect to the complaints of other tenants about harassing behaviour they have experienced from the Tenants. On this issue, the Commission agrees with the Rental Office that a termination of the tenancy agreement is warranted.

5. CONCLUSION

19. Based on the reasons above, the Commission dismisses the appeal and confirms Order LD23-359, subject to a revised date for the termination of the tenancy agreement.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. The outcome of Order LD23-359 is confirmed, subject to a variation in the termination date and time.
3. The tenancy agreement shall be terminated on August 31, 2023 at 5:00 p.m. The Tenants and all occupants shall vacate the Premises by this date and time.
4. 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, August 16, 2023.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(sgd. Murray MacPherson)

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.