



LR23035

Date Issued: August 16, 2023
Docket: LR23066
Type: Rental Appeal

INDEXED AS: Gwen Cannon v Paul Gauthier
Order No: LR23-41

BETWEEN:

Gwen Cannon

Appellant

AND:

Paul Gauthier

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. On May 1, 2023, Gwen Cannon (the “Tenant”), entered into a verbal month-to-month tenancy agreement for the premises located at 261 Grafton Street, Unit 5, Charlottetown, PE (the “Premises”) with Paul Gauthier (the “Landlord”). Rent for the Premises is \$625 per month due on the first day of the month.
3. On June 30, 2023, the Landlord served the Tenant with an Eviction Notice. The effective date was August 1, 2023. The Notice was served on the Tenant for the following reason:
 - i. You or persons admitted to the premises by you have conducted yourself/themselves in a manner as to interfere with the possession, occupancy or quiet enjoyment of other lessees.
4. On July 7, 2023, the Tenant filed with the Rental Office an application to dispute the Eviction Notice (the “Application”).
5. In Order LD23-368 the Rental Office found that the Notice was valid and ordered that the tenancy agreement between the parties be terminated effective 5:00 p.m. on August 10, 2023, and that the Tenant and all occupants vacate the Premises by that time and date.
6. The Tenant filed an appeal with the Commission.
7. The Commission heard the appeal on August 15, 2023, by way of telephone conference call. Both the Tenant and Landlord appeared at the hearing and represented themselves.

3. DISPOSITION

8. The Commission dismisses the appeal and confirms Order LD23-368.

4. ANALYSIS

9. The Landlord testified that the reason for the Eviction Notice is out of concern for the safety and security of the other tenants of the building. He testified that some friends and acquaintances of the Tenant are visiting the building and damaging the property, threatening his other tenants, and leaving needles and other garbage all over the property. He said the garbage for the building was recently rejected for pick up because there were too many needles in it.
10. The documentary evidence includes statements from three other tenants of the building outlining their concerns and issues with these visitors. One statement speaks to the noise and disruption caused, as well as the garbage and needles left behind. A second tenant

described a situation where someone was going through her garbage and when she asked them to stop they asked “have you ever had your throat slit?”. The third tenant statement says that she often finds people on her back porch looking in the windows, and that she feels unsafe to let her children play outside.

11. The Landlord also submitted photographs of people congregating and sleeping in a common area of the building on an old mattress that once belonged to the Tenant.
12. The Landlord’s position is that he cannot allow his other tenants to continue to feel unsafe in the building or risk harm, and that is why he is trying to ensure that these people no longer visit the property through evicting the Tenant.
13. At the hearing, the Tenant testified that the people are friends of the previous tenant and that she does not know them and has no control over them. She indicated they are stealing from her too, and that they keep coming back no matter how many times she asks them not to. She testified that the garbage and needles left on the property do not belong to her. She testified that she feels things have calmed down a lot since she stopped answering the door, but that some people still camp in the backyard.
14. In response to the Tenant’s evidence that the people causing issues are not friends of hers, the Landlord testified that many of the people specifically ask for this Tenant by name or say they are visiting her.
15. Clause 61(1)(d) of the *Residential Tenancy Act* states...

61. Landlord’s notice for cause

- (1) A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

[...]

- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord’s property at significant risk;

16. In this case, the Commission is satisfied that the evidence provided by the Landlord is sufficient to prove, on a balance of probabilities, that persons permitted on the residential property by the Tenant have significantly interfered with and unreasonably disturbed other occupants.
17. The onus is on the Tenant to take steps to ensure her guests who visit the Premises behave appropriately, and if those persons do not do so and become unwanted, that they are removed by the police, both for her own protection and the protection of other tenants. By failing to take these steps, the Tenant is responsible for their behaviour.

18. Therefore, having reviewed the testimony presented at the hearing, as well as the documents on file, the Commission is satisfied that the presence of these acquaintances of the Tenant, along with the behaviour, such as leaving behind garbage, including used needles, threatening other tenants, occupying the Premises without permission, and sleeping in a common area, would interfere with and disturb other tenants.
19. Accordingly, the Commission agrees with the finding of the Director that the tenancy agreement should be terminated.

5. CONCLUSION

20. Based on the reasons above, the Commission dismisses the appeal and confirms Order LD23-368.

IT IS ORDERED THAT

1. **The appeal is dismissed.**
2. **The outcome of Order LD23-368 is confirmed.**
3. **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.