



Date Issued: August 24, 2023
Docket: LR23067
Type: Rental Appeal

INDEXED AS: Felicia Doran v. Christopher McQuaid

Order No: LR23-44

BETWEEN:

Felicia Doran

Appellant

AND:

Christopher McQuaid

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 August 23, 2023, and asks the Commission to determine whether the Residential Tenancy Officer (the “Rental Officer”) erred in finding that the rental agreement should be terminated.

2. BACKGROUND

2. In the summer of 2020, Felicia Doran (the “Tenant”), entered into a rental agreement for the premises located at 17 Spring Street, Charlottetown, PE (the “Premises”) with Christopher McQuaid (the “Landlord”). Rent for the Premises is \$1455 per month.
3. On July 2, 2023, the Landlord filed with the Residential Tenancy Office an application to determine dispute (the “Application”). Attached to the Application was a Landlord Notice of Termination dated February 28, 2023, effective June 30, 2023 (the “Notice”) citing s. 15(1)(a) of the Rental of Residential Property Act (the “Act”).
4. In Order LD23-344 the Rental Officer found that: The Notice was valid; denied the Application; ordered the termination of the rental agreement effective 5:00 p.m. on August 1, 2023; and that the Tenant vacate the Premises by that time and date.
5. The Tenant filed an appeal with the Commission.
6. The Commission heard the appeal on August 23, 2023, by way of telephone conference call. The Tenant and the Landlord were on the phone during the hearing.

3. DISPOSITION

7. The Commission dismissed the appeal and upheld Order LD23-344.

4. ANALYSIS

8. The Tenant questioned why the Landlord had not selected the other side of the duplex at 15 Spring Street as he had lived there in the past. The Landlord stated that the Premises have closets that 15 Spring Street lacks and thus the Premises better suit his needs.
9. The Tenant did not identify any error in Order LD23-344.
10. Clause 15.(1)(a) of the Act allows a landlord to evict a tenant for personal use:

15.(1) Where the lessor in good faith seeks to

(a) have possession of the premises for occupation by himself, his spouse, children or parents, or the parents of his spouse;

the lessor may serve the lessee with a notice of termination to be effective not less than two months after it is served.

11. There is no evidence before the Commission that there was a lack of good faith. The Landlord sought possession and occupation of the Premises for himself, and exceeded the minimum notice period as his Notice was dated February 28, 2023 seeking possession on June 30, 2023.

5. CONCLUSION

12. The Commission finds that clause 15.(1)(a) was complied with, and accordingly, the appeal is dismissed and Order LD23-344 is confirmed.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Order LD23-344 is confirmed.

DATED at Charlottetown, Prince Edward Island, Thursday, August 24, 2023.

BY THE COMMISSION:

(sgd. J. Scott MacKenzie, K.C.)

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

(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.