



**Date Issued:** October 5, 2023  
**Docket:** LR23057  
**Type:** Rental Appeal

INDEXED AS: 101728 P.E.I. Inc., dba Baker's Lighthouse Motel v. Melissa Griffin  
Order No: LR23-55

**BETWEEN:**

101728 P.E.I. Inc., dba Baker's Lighthouse Motel

**Appellant**

**AND:**

Melissa Griffin

**Respondent**

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## ORDER

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Panel Members:

J. Scott MacKenzie, K.C., Chair  
Kerri Carpenter, Commissioner

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

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Commission Administrator  
Corporate Services and Appeals

## 1. INTRODUCTION

1. This appeal was heard by the Commission on September 11, 2023, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the rental agreement should continue.

## 2. BACKGROUND

2. In April 2020, Melissa Griffin (the “Tenant”), entered into a verbal month-to-month rental agreement for the premises located at 802 Water Street East, Unit 4, Summerside, PE (the “Premises”) with 101728 PEI Inc., dba Baker’s Lighthouse Motel (the “Landlord”). Rent for the Premises is \$808 per month due on the first day of the month.
3. On June 8, 2023, the Tenant filed with the Rental Office an application to determine dispute (the “Application”). Attached to the Application was an Eviction Notice dated May 31, 2023 (the “Notice”). The Notice was served on the Tenant for the following reasons:

*You or someone you have allowed on the property have disturbed or endangered others; and*

*You or someone you have allowed on the property have engaged in illegal activity on the property.*

4. In Order LD23-317 the Rental Office found that the Notice was invalid and ordered that the tenancy agreement between the parties continue in full force and effect.
5. The Landlord filed an appeal with the Commission.
6. The Commission heard the appeal on September 11, 2023, by way of telephone conference call. The Landlord was represented by Andrew MacDonald (“Mr. MacDonald”), legal counsel. Victor Zhou (“Mr. Zhou”) testified for the Landlord. Carol Clark-Larkin (“Ms. Clark-Larkin”) also testified for the Landlord. The Tenant participated in the hearing, and was assisted by Patricia Caudle (“Ms. Caudle”). Coady Gallant (“Mr. Gallant”) testified for the Tenant.

## 3. DISPOSITION

7. The Commission dismisses the appeal and confirms Order LD23-317.

## 4. ANALYSIS

8. The Landlord issued the Notice of Eviction because, he alleges, the Tenant made threatening comments regarding himself and the Premises. The Landlord’s evidence is that when speaking with other tenants of the building that include the Premises, after the Landlord had wrongfully issued eviction notices to the Tenant and others, the Tenant made threats to burn down the apartment building and shoot him in the leg.

9. As support for his position, the Landlord submitted into evidence two videos, both of which are audio recordings of two separate people (R.P. and Ms. Clark-Larkin) stating they heard the Tenant say she would burn down the apartment building.
10. Ms. Clark-Larkin testified at the hearing. She stated that a group of tenants had received an eviction notice in April 2023, and then she met with the Tenant and Mr. Gallant to work together to fight the eviction. She recalled that, at that time, the Tenant was upset and said she would like to burn the building down. Ms. Clark-Larkin said she believed the Tenant said it out of fear as they were being evicted. Ms. Clark-Larkin also testified that the Tenant said she would like to shoot Mr. Zhou in the leg.
11. At the hearing, Mr. Zhou testified that he had also recorded another tenant of the building, R.P, who had stated that he heard the Tenant say much the same thing as reported by Ms. Clark-Larkin. Mr. Zhou confirmed that there have been no other unacceptable conduct or incidents involving the Tenant other than the alleged threats.
12. Mr. MacDonald advised the Commission that on June 22, 2023, at approximately 12:30am, part of the apartment building did catch fire and burn down. While he was clear that the Landlord was not alleging the Tenant was responsible, it was his position that this demonstrates the Tenant's alleged threat communicated to her co-tenants was not superficial.
13. The Landlord considers the Tenant's comments as significant threats to the Landlord's property and other tenants, and submits that this conduct falls under clauses 61(1)(d) and (e) of the *Residential Tenancy Act*. For example, the comments were unreasonably disturbing to other occupants and the Landlord, and jeopardized a lawful interest of the Landlord. Mr. MacDonald submitted that the Mr. Zhou has a right to feel safe and that Tenant's comments resulted in a significant breakdown of the relationship between the parties and are grounds to terminate the tenancy.
14. In response, the Tenant testified that she spoke to Summerside Police who told her they do not consider her a suspect. Ms. Caudle testified that she, too, was advised by Summerside Police that they had no concerns about the Tenant. Further, the Tenant denied threatening to shoot Mr. Zhou in the leg. Mr. Gallant provided brief testimony, stating that he did not hear or witness the Tenant make any comments about shooting anybody or burning the building down.
15. The question for the Commission on this appeal is, in effect, whether the Notice of Eviction is valid and whether to allow the Tenant's Application to dispute it.
16. Clauses 61(d) and (e) of the *Residential Tenancy Act* read:
  - 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;
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
  - (i) has caused or is likely to cause damage to the landlord's property,
  - (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
  - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of the landlord or another occupant;

17. The Commission is not satisfied that the Landlord provided sufficient evidence to establish that the Tenant's conduct breached clauses 61(1)(d) and (e) of the *Residential Tenancy Act*.

18. The evidence is clear that the conduct in question is the only the alleged threats communicated by the Tenant to co-tenants.

19. However, there is no evidence that the Landlord directly heard the Tenant make the alleged threats. Ms. Clark-Larkin testified that the Tenant made that statement in her presence, but that it was within the context of a meeting to work together to fight the Landlord's improper efforts to wrongfully evict her, the Tenant and other tenants from five units, and that she believed the Tenant said it out of fear.

20. There is no evidence that the Landlord, after hearing about the alleged statement of the Tenant through other tenants, contacted the police with his concerns.

21. The Tenant denies that she made the alleged statements. Further, while it was the evidence of Ms. Clark-Larkin that Mr. Gallant was present when she heard the Tenant make the statement, Mr. Gallant provided direct testimony that he never heard the Tenant make the alleged statements.

22. Finally, the Landlord confirmed that there have been no other incidents of concern with the Tenant since the alleged statements in April 2023.

23. The Commission notes that following the hearing it was reported in the media that four persons had been charged with arson-related offences in relation to the fire at the building referred to in paragraph 12 above. The Commission was advised that the Tenant is not one of the individuals charged.

24. For these reasons, the Commission finds that based on the specific facts of this case and the context within which the alleged improper conduct occurred, that the Landlord has not provided sufficient evidence to prove that the Tenant has breached clauses 61(1)(d) or (e) of the Act. The Commission agrees with the finding of the Residential Tenancy Officer in Order LD23-317.

## **5. CONCLUSION**

25. The appeal is dismissed and Order LD23-317 is confirmed.

### **IT IS ORDERED THAT**

- 1. The appeal is dismissed.**
- 2. Order LD23-317 is confirmed.**

**DATED** at Charlottetown, Prince Edward Island, Thursday, October 5, 2023.

### **BY THE COMMISSION:**

(sgd. J. Scott MacKenzie)

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J. Scott MacKenzie, K.C., Chair

(sgd. Kerri Carpenter)

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Kerri Carpenter, 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.