



Date Issued: November 8, 2023
Docket: LR23101
Type: Rental Appeal

INDEXED AS: Shenae Bourgeois v. 101728 P.E.I. Inc, dba Baker's Lighthouse Motel
Order No: LR23-71

BETWEEN:

Shenae Bourgeois

Appellant

AND:

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

Respondent

ORDER

Panel Members:

M. Douglas Clow, Vice-Chair
Kerri Carpenter, 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 November 8, 2023, and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in finding that a rental agreement be terminated.

2. BACKGROUND

2. On August 2, 2023, Shenae Bourgeois (the "Tenant") entered into a verbal month-to-month tenancy agreement with 101728 P.E.I. Inc. (the "Landlord") for premises located at 802 Water Street East, Apartment #1, Summerside, PE (the "Premises"). Rent for the Premises is \$1200 per month due on the first day of the month with a security deposit of \$1,200 required but not paid.
3. On September 3, 2023, the Landlord served the Tenant with an Eviction Notice (the "Notice"). The effective date was September 23, 2023. The Notice was served for the following reasons:

You have not paid your rent in the amount of \$1,200; and

You have not paid the security deposit.

4. On September 18, 2023 the Landlord filed with the Rental Office an application to determine dispute (the "Application") seeking the following remedy pursuant to the Residential Tenancy Act (the "Act):

To request my tenant vacate the rental unit and ordering the Sheriff to put me in possession of the rental unit.

5. The Rental Office found that the Tenant did not pay the security deposit or pay rent for the months of September and October, 2023. The Rental Office also found that the Tenant did not file a Section 75 Application (Form 2A) with the Rental Office and was therefore deemed to have accepted the Notice.
6. In Order LD23-471 dated October 10, 2023, the Rental Office allowed the Application and ordered that the tenancy agreement between the parties terminate effective 5:00 p.m., October 17, 2023 and that a certified copy of the Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Act.
7. The Tenant filed an appeal with the Commission.
8. The Commission heard the appeal on November 8, 2023, by way of telephone conference call. The Appellant did not participate. The Respondent was represented by Victor Zhou.
9. At the beginning of the hearing, scheduled for 9:00 a.m., the Appellant did not appear on the telephone line. The Commission waited until 9:10 a.m. to commence the hearing to give the Appellant extra time to call in. During the waiting period, Commission staff attempted to call the Appellant using the telephone number printed on her Notice of

Appeal. An automated message indicated that the person associated with the telephone number was not available.

10. At 9:10 a.m. the Commission commenced the hearing. Commission staff reviewed on the record the process whereby the Appellant was advised of the date, time, and procedure to participate in the hearing. An email was sent to the Appellant using the email address provided on her Notice of Appeal on October 26, 2023 with a reminder email sent on November 3, 2023.

11. As the Appellant was fully advised of the date, time and procedure to participate and yet failed to participate in the hearing of her appeal, the Commission deemed the appeal to be abandoned. Accordingly, the appeal is dismissed and Order LD23-471 remains in full force and effect.

3. DISPOSITION

12. The Commission deemed the appeal abandoned and dismissed the appeal as the Appellant failed to participate in her appeal. Order LD23-471 remains in full force and effect.

IT IS ORDERED THAT

- 1. The appeal is deemed abandoned and therefore dismissed.**
- 2. Order LD23-471 remains in full force and effect.**
- 3. As set out in Order LD23-471, the tenancy agreement has been terminated effective October 17, 2023 at 5:00 p.m.**
- 4. A certified copy of this Order together with Order LD23-471 may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Act.**

DATED at Charlottetown, Prince Edward Island, Wednesday, November 8, 2023.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(sgd. Kerri Carpenter)

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.