



Date Issued: December 5, 2023
Docket: LR23107
Type: Rental Appeal

INDEXED AS: Jessica Hooley v. Earl Foster
Order No: LR23-73

BETWEEN:

Jessica Hooley

Appellant

AND:

Earl Foster

Respondent

ORDER

Panel Members:

Kerri Carpenter, Commissioner
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 November 23, 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. In December of 2021, Jessica Hooley (the “Tenant”) entered into a written fixed term tenancy agreement with Earl Foster (the “Landlord”) for premises located at 126 St. Peter’s Road, Charlottetown, PE (the “Premises”). Rent for the Premises is \$950 per month due on the first day of the month with a security deposit of \$600 required and paid.
3. On September 20, 2023, the Landlord served the Tenant with an Eviction Notice (the “Notice”). The effective date was October 20, 2023. The Notice was served for the following reasons:

You have permitted an unreasonable number of occupants in the rental unit; and

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

4. On October 6, 2023, the Landlord served the Tenant with another Eviction Notice (the “Second Notice”). The effective date was October 6, 2023. The Notice was served for the following reason:

You have not paid your rent in the amount of \$950.00.

5. On October 27, 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.

6. The Rental Office found that the Tenant had breached subsection 61.(1)(e) of the Act and the Landlord had established a valid basis for terminating the tenancy agreement due to the non-payment of rent for the month of October, 2023.
7. In Order LD23-521 dated November 9, 2023, the Rental Office allowed the Application and ordered that the tenancy agreement between the parties terminate effective 5:00 p.m., November 20, 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.
8. The Tenant filed an appeal with the Commission which was received on November 15, 2023.
9. The Commission heard the appeal on November 23, 2023, by way of telephone conference call. The Landlord both participated. The Tenant did not participate.

3. DISPOSITION

10. At the commencement of the hearing, the Appellant failed to call in. Commission staff then attempted to telephone the Appellant using both telephone numbers noted on her Notice of Appeal and also sent her an email reminder.
11. The Commission finds that the Appellant was fully informed of the date, time and method of participation by way of a November 17, 2023 email and a Notice of Appeal Hearing sent to the email address she specified on her Notice of Appeal.
12. As the Appellant failed to participate in her appeal, the Commission therefore deems the appeal to be abandoned, the appeal is dismissed and Order LD23-521 remains in full force and effect, subject to the termination date of the tenancy agreement being amended to December 8, 2023 at 12:00 PM.

IT IS ORDERED THAT

1. **The appeal is deemed to be abandoned and is therefore dismissed.**
2. **Order LD23-521 is confirmed and remains in full force and effect, subject to a change in the effective date of the termination of the tenancy agreement, to December 8, 2023 at 12:00 PM. 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, Tuesday, December 5, 2023.

BY THE COMMISSION:

(sgd. Kerri Carpenter)

Kerri Carpenter, Commissioner

(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.