



Date Issued: February 14, 2024
Docket: LR23076
Type: Rental Appeal

INDEXED AS: Daniel Vernier v. Tianyi Yu

Order No: LR24-05

BETWEEN:

Daniel Vernier

Appellant

AND:

Tianyi Yu

Respondent

ORDER

Panel Members:

Kerri Carpenter, Commissioner and
Panel 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 January 9, 2024 and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in denying a tenant’s application for compensation for a bad faith eviction.

2. BACKGROUND

2. On June 1, 2021, Daniel Vernier (the “Tenant”) entered into a written, fixed-term rental agreement for the premises located at 24 Kinlock Road, Stratford, PE (the “Premises”) with his previous landlord. Rent for the Premises was \$1,350.00 per month with a security deposit paid in the amount of \$1,350.00. Tianyi Yu (the “Landlord”) purchased the Premises with a closing date of March 14, 2023.
3. The Tenant vacated the Premises on March 1, 2023, pursuant to a Notice of Termination by Lessor of Rental Agreement issued under the *Rental of Residential Property Act* (the “Termination Notice”) dated January 13, 2023. The Termination Notice included a Statutory Declaration that the Landlord required possession of the Premises for herself.
4. On June 7, 2023 the Tenant filed a Tenant Application (the “Application”) to Determine Dispute (Form 2A) with the Rental Office. The Application sought compensation for a bad faith eviction.
5. The Tenant’s Application was heard by the Rental Office on August 30, 2023. The Rental Office denied the Tenant’s Application in Order LD23-426 dated September 11, 2023.
6. On September 12, 2023 the Tenant filed an appeal with the Commission.
7. There were several requests for a postponement of the appeal hearing during the months following the filing of the appeal. On January 9, 2024 the Commission heard the appeal by way of telephone conference hearing. Both the Tenant and the Landlord participated. The matter was adjourned and the hearing reconvened on January 23, 2024. Both the Tenant and the Landlord participated on the second hearing day as well.

3. DISPOSITION

8. The appeal is dismissed and Order LD23-426 is confirmed.

4. ANALYSIS

9. The Tenant acknowledged that the Residential Tenancy Act (the “Act”) came into effect on April 5, 2023 and he moved out of the Premises in March 2023. He noted that the Act was approved by the Legislature in the fall of 2022 but had not yet been proclaimed. He submitted that the Landlord purposely rushed the purchase deal in order to have him move out before the Act came into effect. He did not point to any specific remedy under the Rental of Residential Property Act (the “Former Act”).

10. The Landlord submitted that she had intended to move into the Premises almost immediately after the Tenant left but changed her mind when she learned that cleaning and painting renovations would be delayed by approximately two weeks. She then decided to rent the Premises to another tenant.
11. At the time the tenancy ended, the Former Act was still in effect and the Act was not yet in effect. Accordingly, the Commission must determine whether it is possible to award the remedy sought by the Tenant under the Former Act.
12. According to Canadian legal authorities, such as cases cited in Sara Blake's text *Administrative Law in Canada* (7th ed), compensation may not be awarded without "express statutory authority". The starting place, therefore, is the wording of the statute. The Act provides this express statutory authority but the Act does not apply to this appeal. Therefore, the Commission must determine whether there is express statutory authority to award compensation contained within the Former Act.
13. Section 8 of the Former Act provided the Director, and on appeal the Commission, with authority to take certain actions and provide certain remedies in respect of an application by a party alleging the lessor or lessee failed to comply with a statutory condition or any other condition or covenant of a rental agreement. The list of actions/remedies includes making a finding that rent is owed, or ordering that "an amount found to be owed be paid"; however, section 8 does not expressly include the authority to award damages or compensation to a party. Subsection 8(f) is a provision that authorizes the Director to:

"make such other decision or order as he considers necessary to ensure compliance with, or to remedy a violation of, this Act or the rental agreement."
14. Here the Tenant is seeking a monetary award of \$8,500.00 from the Landlord on the basis that the Landlord sought possession of the Premises for herself yet instead re-rented the Premises and thus the Landlord acted in bad faith. The Tenant's claim reflects the higher rent he now pays at his new home, higher bills and moving expenses.
15. Based on the civil standard of the balance of probabilities, the evidence supports a finding that the Landlord acted in bad faith by requiring the eviction of the Tenant in order to seek possession of the Premises for herself upon purchasing the Premises and then re-renting the Premises on the reasoning that minor renovations were delayed for two weeks.
16. However, although the Landlord acted in bad faith, the rental agreement ended on March 1, 2023 when the Tenant and his family moved out. The Former Act does not specify a remedy for compensation where a landlord is later determined to have acted in bad faith. While subsection 8(f) might be said to imply statutory authority for a remedy where a landlord acts in bad faith, possible implied authority falls far short of the express statutory authority required to award compensation.
17. Accordingly, there was no express statutory authority for a remedy for a bad faith eviction when the rental agreement terminated and therefore the appeal must be dismissed.

5. CONCLUSION

18. There was no express statutory authority for a remedy for a bad faith eviction when the rental agreement terminated on March 31, 2023 and therefore the appeal must be dismissed.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Director's Order LD23-426 is confirmed.

DATED at Charlottetown, Prince Edward Island, Wednesday, February 14, 2024.

BY THE COMMISSION:

(sgd. Kerri Carpenter)

Kerri Carpenter, Commissioner and Panel
Chair

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

(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.