



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

**Date Issued:** April 24, 2024

**Docket:** LR24010

**Type:** Rental Appeal

INDEXED AS:

Order No: LR24-19

**BETWEEN:**

Hossein Ashrafi

**Appellant**

**AND:**

Patio Properties and Trading Inc.

**Respondent**

---

## ORDER

---

Panel Members:

M. Douglas Clow, Vice-Chair

Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

## **A. INTRODUCTION**

1. This appeal was heard by the Commission on March 20, 2024, and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in finding that a tenancy agreement be terminated and a tenant and all occupants vacate a residential property.
2. The applicable legislation is the *Residential Tenancy Act* (the "Act").

## **B. BACKGROUND**

3. On February 9, 2024 the Rental Office issued Order LD24-043 which ordered the termination of a tenancy agreement between the landlord Patio Properties and Trading Inc. (the "Landlord") and the tenant Hossein Ashrafi (the "Tenant"). Order LD24-043 established the termination date and time as February 29, 2024 at 5:00 p.m. The Tenant and all occupants were ordered to vacate the residential property of Apartment 10, 35 Glen Stewart Drive, Stratford PE (the "Premises") by the termination date and time.
4. On February 15, 2024 the Commission received a Notice of Appeal from the Tenant.
5. At the Tenant's request, the Commission provided contracted translation services. After several postponements, the hearing was held on March 20, 2024. The Tenant was present and represented himself. Raeda Alhasan ("Ms. Alhasan") represented the Landlord. David Herring ("Mr. Herring") testified for the Landlord.

## **C. DISPOSITION**

6. The appeal is dismissed and Order LD24-043 is confirmed. The Tenant and all occupants must immediately vacate the Premises.

## **D. ANALYSIS**

7. Mr. Herring testified that he is a pest control technician with Rentokil. He was hired by the Landlord to treat the Premises. He stated that the Premises, a two-bedroom apartment, was not prepared for treatment. He testified that one of the bedrooms had so much clutter that the door could only open a few inches. He stated that the clutter in that bedroom reached the ceiling. He stated that he had previously told the Tenant to get the Premises ready. Mr. Herring then returned two weeks later and discovered the Premises were in the same unacceptable state of clutter. As he could not treat all the rooms in the Premises, Mr. Herring was unable to spray and treat the Premises.
8. The Tenant stated that Mr. Herring was not honest. The Tenant testified that there was "collusion" between Mr. Herring and the Landlord. The Tenant referred to his video evidence (Exhibit E-19) and stated that he asked Mr. Herring for his direct contact information so he could schedule a new visit. The Tenant stated that Ms. Alhasan tried to prevent this. The Tenant stated that he first brought the concerns about the pests to the Landlord's attention in May 2023 yet the Landlord did not seek to spray the Premises until

November 2023. The Tenant submitted that Exhibit E-19 demonstrates that Ms. Alhasan did not allow Mr. Herring to do his job properly.

9. The Tenant also testified that he had previously received five notices to vacate the premises on the basis that he had not paid rent and his son was a dangerous person. He submitted that the Landlord had a personal agenda to remove him and his son for the Landlord's personal gain.
10. Ms. Alhasan testified that all tenants in the building, including the Tenant, were notified about the spraying. The Premises was cluttered and not ready for treatment. She referenced the Tenant's conduct in his video (Exhibit E-19). She stated that the Tenant always accuses everyone, including the Landlord's staff, Mr. Herring, the Rental Office staff and the Commission staff. She stated that the Premises need to be treated as it is a health issue. She stated that the Landlord's staff are afraid to do anything with the Premises because the Tenant is always accusing us and it is impossible to do maintenance when the Tenant is accusing them of stealing or harassing him. She stated that the Tenant was treated like all the other tenants. She stated that the Tenant did not cooperate and follow instructions to prepare the Premises for treatment.
11. Exhibit E-9, page 41 of the Commission file record, is an email dated November 30, 2023 at 11:00 a.m. from the Landlord to the Tenant and other tenants in the same apartment building. It reads:

*Hello,*

*We will have a pest control company at the building tomorrow (1 December, 2023) at 1:00 pm to perform a second round of inspection and treatment at the building and all the apartments. Please make sure that all the kitchen and bathroom cabinets are completely empty and accessible, and have access to all the walls in the apartment as they will need to be inspected/treat all the trim, carpet and electrical sockets. Please consider this a 24 hour notice that access to all the units will be needed at that time to complete this inspection. If you are not available at that time, please respond to this email with your consent to access your unit in your absence.*

*Best Regards,*

*Patio Properties and Trading Inc.*

12. Exhibit E-12 is a December 1, 2023 email sent at 5:39 p.m. from Mr. Herring to the Landlord. It reads:

*Today I did the 3<sup>rd</sup> treatment at 35 Glen Stewart Drive in Stratford. Apartment #6 and #12 were prepared so I baited and sprayed these 2 units. Unit #10 still has a large amount of clutter through out the unit so I couldn't do a treatment again after 3 attempts.*

13. The Tenant has placed great emphasis on Exhibit E-19, a video he took when Mr. Herring attended the Premises on December 1, 2023. Accompanying Mr. Herring was Ms. Alhasan and a man, who the Commission believes to be Nasser Karfour. Having viewed the video, the Commission finds:

- The kitchen and bathroom cabinets appeared to have been emptied with cupboard doors left open. This appears to be in compliance with the instructions noted in Exhibit E-9.
- Areas visible in the hallway and living room had items on the floor up against the baseboard trim and walls. This is not in compliance with the E-9 instructions.
- The videographer then opens a bedroom door, revealing a mattress on the floor and items up against the baseboard trim and walls. This is not in compliance with the E-9 instructions.
- The video captures Mr. Herring refusing to spray as the Premises were not made ready.
- The videographer, which appears to be the Tenant, then pursues Mr. Herring and the others out into the hallway and into the parking lot demanding Mr. Herring's direct contact information.
- The video shows only one bedroom.

14. Based on the evidence before the Commission, the Commission finds that the Tenant did not comply with treatment instructions.

15. In Order LD234-043 it is noted:

*[20] After reviewing the documentary evidence and the submissions of the parties, specifically the documentary evidence of the Landlord and the video evidence of the Tenant, the Officer finds that the Landlord has established that the Tenant has breached subsection 61.(1)(d) of the Act. The Officer finds that by failing to properly prepare the rental unit for pest control spraying, 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;*
- (iii) put the landlord's property at significant risk.*

*[21] The Officer specifically notes the video evidence submitted by the Tenant. In the video from December 1, 2023, the technician leaves the rental unit without spraying and states the rental unit was not ready as he could not access the bedroom. The Representative states to the Tenant it was the third time they have attempted to spray. The Tenant then follows the Representative and the technician out of the building to the parking lot while filming. The Tenant states "three times you come and no spray." In the video, the Tenant can be seen filming*

*everywhere in the rental unit except the bedroom which the technician stated has not been prepared.*

16. The Commission agrees with the Rental Office that the Tenant has breached clause 61. (1)(d) and this breach justifies termination of the tenancy.

17. Accordingly, the appeal is dismissed and Order LD24-043 is confirmed.

## **E. CONCLUSION**

18. The Tenant has breached clause 61. (1)(d) of the *Act*. The Commission agrees with the Director that this breach justifies termination of the tenancy agreement.

## **IT IS ORDERED THAT**

- 1. The appeal is dismissed.**
- 2. Order LD24-043 is confirmed.**
- 3. The tenancy agreement between the Landlord Patio Properties and Trading Inc. and the Tenant Hossein Ashrafi is terminated effective February 29, 2024.**
- 4. The Tenant and all occupants shall immediately vacate the Premises Apartment 10, 35 Glen Stewart Drive, Stratford PE.**
- 5. A certified copy of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the Residential Tenancy Act, RSPEI 1988, R-13.11.**

**DATED** at Charlottetown, Prince Edward Island, 24<sup>th</sup> day of April, 2024.

## **BY THE COMMISSION:**

(sgd. M. Douglas Clow)

\_\_\_\_\_  
M. Douglas Clow, Vice-Chair

(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.