



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**
Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR06004
Order LR06-07**

IN THE MATTER of an appeal, under
Section 25 of the *Rental of Residential
Property Act*, by Wade Hughes against Order
No. LD06-022 of the Director of Residential
Rental Property, dated January 31, 2006.

BEFORE THE COMMISSION
on Thursday, the 27th day of April, 2006.

Weston Rose, Commissioner
Norman Gallant, Commissioner
Anne Petley, Commissioner

Order

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Wade Hughes against Order No. LD06-022 of the Director of Residential Rental Property, dated January 31, 2006.

Participants

1. Appellant: Wade Hughes

 2. Respondent: Stephen O'Brien
Margaret O'Brien
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Reasons for Order

1. Introduction

Wade Hughes (the Appellant) has appealed Order LD06-022 (Exhibit E-6) issued by the Office of the Director of Residential Rental Property (the Director) on January 31, 2006. The Island Regulatory and Appeals Commission (the Commission) received the Appellant's Notice of Appeal (Exhibit E-7) on February 23, 2006.

The Director's Order and the present appeal concern the matter of storage space at a residence located at 4 Chelsey Circle in Charlottetown (the residence).

The appeal was heard in the Commission's main hearing room in Charlottetown, Prince Edward Island on Tuesday, March 14, 2006.

2. Background

Stephen O'Brien (the Respondent) filed an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (Form 2) on August 1, 2005. The Respondent states on the Form 2:

Locks were changed on the garage and our belongings put outside without even telling us after our rent was paid – seeking in return of rent \$200.00.

The Appellant filed a letter dated September 20, 2005 responding to the Respondent's claim.

The Director held a hearing on October 14, 2005 pursuant to section 4(2)(d) of the **Rental of Residential Property Act** (the **Act**). The Director determined that the Respondent was deprived of access to space in the storage building for five weeks after the Appellant changed the locks. The Appellant was ordered to pay the Respondent the sum of \$200.00 as a return of rent.

3. Decision

The Commission allows the appeal and orders that the Appellant pay the Respondent the sum of \$60.00 as a return of rent for a loss of storage space for the reasons that follow.

The Respondent was renting the residence from the Appellant at a monthly rent of \$1100.00 commencing December 1, 2004. This included a house and a storage building. On June 1, 2005 the Appellant served the Respondent with a Notice of Termination by Lessor of Rental Agreement (Form 4) to be effective July 31, 2005. The Respondent vacated the residence on July 16, 2005.

From the evidence before the Commission, it appears that in the spring of 2005 the Appellant had moved some of the Respondent's belongings including children's bicycles from the main storage building to a smaller storage building on the same parcel of land. It appears that, about three weeks before the Respondent vacated the residence, the Respondent's lawn tractor and lawn tractor converted to a go-cart were also removed from the main storage building and these items were left outside. The Appellant then changed the locks on the main storage building.

From the evidence before the Commission, the Commission finds that the Respondent was deprived of storage space sufficient to store two lawn tractors for a period of three weeks.

In the Director's Order, it was stated that a 10 foot by 30 foot storage space through Stow-it-all Ltd. would cost \$245.00 per month. It was also stated in the Director's Order that the Respondent was deprived of access to similar space for five weeks.

At the hearing before the Commission, the Appellant filed Exhibit E-9 which is a copy of a brochure from Stow-it-all Ltd. On this exhibit, it is noted in handwriting that the price of a 10 foot by 10 foot by 8 foot space is \$109.00 per month plus GST. The Commission finds that a 10 foot by 10 foot space would be substantially larger than that needed to store two lawn tractors. As well, the storage space that the Respondent was deprived of would likely not be as secure or in a fenced compound.

Accordingly, the Commission finds that \$60.00, representing approximately half of the cost of the commercial 10 foot by 10 foot storage space, would be a reasonable valuation of the storage space the Respondent was deprived of.

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Wade Hughes against Order No. LD06-022 of the Director of Residential Rental Property, dated January 31, 2006.

Order

WHEREAS Wade Hughes against Order No. LD06-022 of the Director of Residential Rental Property, dated January 31, 2006.;

AND WHEREAS the Commission heard the appeal in Charlottetown on March 14, 2006;

NOW THEREFORE, for the reasons given in the annexed Reasons for Order;

IT IS ORDERED THAT

1. The appeal is allowed.
2. The Appellant shall pay the Respondent Stephen O'Brien the sum of \$60.00 as a return of rent for a loss of storage space.

DATED at Charlottetown, Prince Edward Island, this 27th day of April, 2006.

BY THE COMMISSION:

Weston Rose, Commissioner

Norman Gallant, Commissioner

Anne Petley, Commissioner

NOTICE

Sections 26.(2), 26.(3), 26.(4) and 26.(5) of the **Rental of Residential Property Act** provide as follows:

26.(2) A lessor or lessee may, within fifteen days of the decision of the Commission, appeal to the court on a question of law only.

(3) The rules of court governing appeals apply to an appeal under subsection (2).

(4) Where the Commission has confirmed, reversed or varied an order of the Director and no appeal has been taken within the time specified in subsection (2), the lessor or lessee may file the order in the court.

(5) Where an order is filed pursuant to subsection (4), it may be enforced as if it were an order of the court.

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