



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

**Docket LR06010
Order LR06-11**

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Sara Grugios against Order No. LD06-160 of the Director of Residential Rental Property, dated June 9, 2006.

BEFORE THE COMMISSION

on Wednesday, the 9th day of August, 2006.

Weston Rose, Commissioner
Norman Gallant, Commissioner
Kathy Kennedy, Commissioner

Order

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Sara Grugios against Order No. LD06-160 of the Director of Residential Rental Property, dated June 9, 2006.

Participants

1. **Appellant:** Sara Grugios
Witness: Katy Gillis
2. **Respondent:** Steven MacKinnon

Reasons for Order

1. Introduction

Sara Grugios (the Appellant) has appealed Order LD06-160 (Exhibit E-8) issued by the Office of the Director of Residential Rental Property (the Director) on June 9, 2006. The Island Regulatory and Appeals Commission (the Commission) received the Appellant's Notice of Appeal (Exhibit E-9) on June 28, 2006.

The Director's Order and the present appeal concern the matter of the payment of rent for the residential premises located at 81 Lori-Dale Avenue in Charlottetown (the residence).

The appeal was heard in the Commission's main hearing room in Charlottetown, Prince Edward Island on Tuesday, July 18, 2006.

2. Background

Steven MacKinnon (the Respondent) filed an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (Form 2) with the Director on January 6, 2006. The Respondent's Form 2 stated the following particulars:

\$800.00 for payment of December, 05 rent. Vacated Dec 01, 05.

In response, the Appellant advised the Director that she did not owe the Respondent any rent money because there was a ground water leak in the basement of the residence and the Respondent did not help with the cleanup. As a result the tenants living downstairs had to move out because of the musty smell.

In a letter received on February 9, 2006 (Exhibit E-4), the Appellant advised the Director that her roommates moved out because of the smell from the water damage in the basement. Without roommates she could no longer afford to pay the rent and thus she had to vacate the residence.

The Director held a hearing on March 14, 2006 pursuant to section 4(2)(d) of the **Rental of Residential Property Act** (the **Act**). In Order LD06-160, the Director determined that the Respondent's rent claim for the month of December 2005 was valid and ordered the Appellant to pay the sum of \$800.00 to the Respondent on or before July 4, 2006.

3. Decision

The Commission denies the appeal and orders that the Order of the Director be confirmed for the reasons that follow.

An oral rental agreement existed between the Appellant and Respondent for rental of the residence at a monthly rent of \$800.00. After entering into the agreement, the Respondent became aware that the Appellant had roommates and he did not object.

In the autumn of 2005 some flooding occurred in the basement of the residence. There is no evidence before the Commission that the basement was a finished basement appropriate for habitation. There is no evidence that the Appellant contacted Environmental Health of the Department of Health to report the water problem. Accordingly, the Commission finds that there is no evidence that water in the basement would have had an impact on the habitability of the residence.

The payment of rent is the responsibility of a tenant. The oral rental agreement was between the Appellant and the Respondent. While the Appellant experienced problems obtaining money from her roommates the Appellant was in a contractual relationship with the Respondent to pay the monthly rent. The notice requirements of the **Act**, set out in Order LD06-160, require the Appellant to pay rent for the month of December 2005.

Accordingly, the Commission denies the appeal, confirms Order LD06-160 and orders the Appellant to pay the Respondent the sum of \$800.00 for rent for the month of December 2005, payable on or before August 31, 2006.

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Sara Grugios against Order No. LD06-160 of the Director of Residential Rental Property, dated June 9, 2006.

Order

WHEREAS Sara Grugios (the Appellant) appeals against Order LD06-160 of the Director of Residential Rental Property (the Director), dated June 9, 2006;

AND WHEREAS the Commission heard the appeal in Charlottetown on July 18, 2006;

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

IT IS ORDERED THAT

1. The appeal is denied.
2. The Director's Order LD06-160 is hereby confirmed.
3. The Appellant shall, on or before August 31, 2006, pay the Respondent the sum of \$800.00 for rent owing for the month of December 2005.

DATED at Charlottetown, Prince Edward Island, this 9th day of August, 2006.

BY THE COMMISSION:

Weston Rose, Commissioner

Norman Gallant, Commissioner

Kathy Kennedy, 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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