



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR07005
Order LR07-03**

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Anne Ellsworth against Order No. LD07-060 of the Director of Residential Rental Property, dated March 1, 2007.

BEFORE THE COMMISSION
on Tuesday, the 20th day of March, 2007.

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

Order

Compared and Certified a True Copy

(sgd.) Philip J. Rafuse

Land and Appeals Officer
Land, Corporate and Appellate Services Division

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Anne Ellsworth against Order No. LD07-060 of the Director of Residential Rental Property, dated March 1, 2007.

Participants

1. Appellant: Anne Ellsworth

2. Respondent: Scott McCallum

Reasons for Order

1. Introduction

Anne Ellsworth (the Appellant) has appealed Order LD07-060 (Exhibit E-5) issued by the Office of the Director of Residential Rental Property (the Director) on March 1, 2007. The Island Regulatory and Appeals Commission (the Commission) received the Appellant's Notice of Appeal (Exhibit E-6) on March 5, 2007.

The Director's Order and the present appeal deal with a Notice of Termination by Lessor of Rental Agreement (Form 4) and an Application by Lessee to Set Aside Notice of Termination (Form 6) concerning residential premises located at 17 Rochford Street, Apartment 1A, in Charlottetown (the rental premises).

The appeal was heard in the Commission's Hearing Room in Charlottetown, Prince Edward Island on Tuesday, March 20, 2007.

Neither the Appellant nor Scott McCallum (the Respondent) attended the hearing, which was scheduled to commence at 9:30 a.m. Commission staff was not advised by either party that they would not attend. At 9:40 a.m. Commission staff attempted to call the Appellant at the telephone number she provided on her Notice of Appeal; there was no answer and no answering machine or voicemail to take a message. A Notice of Appeal Hearing clearly stating the date, time and location of the hearing was mailed to the parties on March 9, 2007 at the Respondent's last known address and to the mailing address provided by the Appellant on her Notice of Appeal.

2. Background

In Order LD07-060 the Director ordered the following:

1. The lessee's [Appellant] application to set aside the Notice of Termination is denied.
2. The Notice of Termination dated February 9, 2007 is valid.
3. The rental agreement between the lessee [Appellant] and the lessor [Respondent] for the residential premises is hereby terminated as of March 9, 2007. The lessee must vacate the residential premises on or before this date.

3. Decision

The Commission finds that the Appellant has abandoned her appeal and accordingly, the appeal is dismissed.

The Appellant was advised of the date, time and location of the appeal in the Notice of Appeal Hearing, dated March 9, 2007. The Appellant failed to appear at the hearing, scheduled for 9:30 a.m. March 20, 2007. Commission staff attempted to telephone the Appellant to remind her of the hearing, but there was no answer. The Respondent also failed to appear. Neither party advised the Commission that they could not attend the hearing or that the appeal was withdrawn.

Accordingly, the appeal is hereby dismissed and the Director's Order LD07-060 remains in full force and effect.

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act*, by Anne Ellsworth against Order No. LD07-060 of the Director of Residential Rental Property, dated March 1, 2007.

Order

WHEREAS Anne Ellsworth (the Appellant) has appealed against Order LD07-060 of the Director of Residential Rental Property, dated March 1, 2007;

AND WHEREAS the Commission heard the appeal in Charlottetown on March 20, 2007;

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

IT IS ORDERED THAT

1. **The appeal is dismissed.**
2. **Order LD07-060 remains in full force and effect.**

DATED at Charlottetown, Prince Edward Island, this 20th day of March, 2007.

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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