



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

**Docket LR09002
Order LR09-04**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Kathleen MacKinnon
against Order No. LD09-038, of the Director
of Residential Rental Property, dated
February 2, 2009.

BEFORE THE COMMISSION
on Friday, the 3rd day of April, 2009.

John Broderick, Commissioner
Chester MacNeill, Commissioner
Anne Petley, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson
Commission Administrator

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Kathleen MacKinnon
against Order No. LD09-038, of the Director
of Residential Rental Property, dated
February 2, 2009.

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Introduction

On February 13, 2009, the Commission received a Notice of Appeal filed by the Appellant Kathleen MacKinnon (Ms. MacKinnon). Ms. MacKinnon appealed Order No. LD09-038 issued by the Office of the Director of Residential Rental Property (the Director) on February 2, 2009.

The Respondent L & E Holdings Inc. (L & E Holdings) owns and operates the Evergreen Village Mobile Home Park (the Park) in Summerside, Prince Edward Island. In Order LD09-038, the Director ordered, in part, that the monthly mobile home site rent for Lot 114, rented to Ms. MacKinnon, be increased to \$146.50 per month, as said lot was found to be a double lot. The other findings of the Director's order, affecting rent increases for other lots located in the Park, are not at issue in this appeal.

This appeal proceeded to a hearing before the Commission on March 9, 2009. Ms. MacKinnon represented herself at the hearing. Ron Martin represented L & E Holdings.

Evidence

Ms. MacKinnon testified that she has resided at Lot 114 in the Park for over thirty years and the rent that she pays has always been based on a single lot. She noted that the double lots in the Park have a double width driveway. Her lot has a single width driveway. She requests that Order LD09-038 be varied to reduce her lot rent to the amount payable by tenants of single lots in the Park, that is to say, \$120.00 per month.

Mr. Martin testified that there are four double lots in the Park, including the lot rented to Ms. MacKinnon. He noted that Ms. MacKinnon's lot was the only double lot which was renting at the single lot rate. Mr. Martin told the Commission that he is working to turn the Park into a financially viable business.

Decision

The Commission allows the appeal for the reasons that follow.

The Commission notes that L & E Holdings did not provide site dimensions for the lots in the Park. While Ms. MacKinnon's lot does appear to be larger than some lots in the Park, it is difficult to be certain that her lot is an actual double lot, based only on viewing an aerial photograph of the Park.

What is certain is that Ms. MacKinnon has been paying rent for her lot as a single lot for over thirty years and her lot, unlike the double lots, has a single width driveway. The Commission finds that these facts suggest that the previous owner of the Park, and Ms. MacKinnon, intended that her lot was considered a single lot.

The appeal is allowed. The Commission finds that Lot 114 is a single lot and Order LD09-038 shall be varied to set the monthly site rent for Lot 114 to \$120.00.

In all other respects, Order LD09-038 is hereby confirmed.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

IT IS ORDERED THAT

1. The appeal is allowed.
2. The monthly lot rent for the single lot on Lot 114 at the Evergreen Village Mobile Home Park, Summerside PE shall be \$120.00 per lot per month.
3. In all other respect, the findings contained in Order LD09-038 are hereby confirmed.

DATED at Charlottetown, Prince Edward Island, this 3rd day of April, 2009.

BY THE COMMISSION:

John Broderick
John Broderick, Commissioner

Chester MacNeill
Chester MacNeill, Commissioner

Anne Petley
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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