



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

**Docket LR09-014
Order LR09-12**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by PEI Housing Authority
against Order No. LD09-159, of the Director
of Residential Rental Property, dated June 2,
2009.

BEFORE THE COMMISSION
on Friday, the 14th day of August, 2009.

John Broderick, Commissioner
David Holmes, 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 PEI Housing Authority
against Order No. LD09-159, of the Director
of Residential Rental Property, dated June 2,
2009.**

Order

Introduction

On June 18, 2009, the Commission received a Notice of Appeal filed by Vernon Doyle, on behalf of the Appellant PEI Housing Authority (the Authority). The Authority appealed Order No. LD09-159 issued by the Office of the Director of Residential Rental Property (the Director) on June 2, 2009.

By way of background, the Authority filed with the Director a Form 4 Notice of Termination by Lessor of Rental Agreement (Notice of Termination) dated May 5, 2009. On May 14, 2009, the Director received a Form 6 Application by Lessee to Set Aside Notice of Termination (Application to Set Aside) filed by the lessee Ted Roach (Mr. Roach). In Order LD09-159, the Director found that the Application to Set Aside was valid, the Notice of Termination was invalid and the rental agreement between Mr. Roach and the Authority was to remain in effect.

This appeal proceeded to a hearing before the Commission on June 30, 2009. Barbara MacInnis represented the Authority. Donna Morris and Earl Keefe testified for the Authority. Mr. Roach testified at the hearing and was represented by his brother George Roach.

Evidence

The Authority described an incident that occurred on April 27, 2009. The Authority called two witnesses who both testified that they would not feel safe if Mr. Roach continued to live in the premises.

George Roach informed the Commission that Mr. Roach is presently living with him in Souris and doing well. He noted that Mr. Roach does not intend to return to the premises. However, Mr. Roach wishes to live in a facility operated by the Authority in the Souris area. With Mr. Roach living in the Souris area, George Roach would be able to “keep a close eye on him”. In fact, there is such a facility within walking distance of George Roach’s home.

Decision

The Commission denies the appeal for the reasons that follow.

The Commission agrees with the reasoning set out in Order LD09-159. Given that the incident was a result of an illness and that the evidence suggests that

the treatment plan is being appropriately followed, the Commission is reluctant to evict Mr. Roach.

The Commission takes particular notice that Mr. Roach has stated on the record that he will not return to the premises. Therefore, the Commission strongly recommends that the Authority, in cooperation with other Provincial agencies as may be necessary, explore the available housing options in the Souris area. The Commission notes that George Roach has demonstrated a willingness to assist Mr. Roach. The Commission is of the view that it would be appropriate for the Authority to assist Mr. Roach in relocating to a suitable facility in the Souris area.

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 hereby denied.
2. Order LD09-159 is hereby confirmed.

DATED at Charlottetown, Prince Edward Island, this **14th** day of **August**, **2009**.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) David Holmes

David Holmes, Commissioner

(Sgd.) 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.

IRAC141y-SFN(2008/10)