



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket: LR09020  
Order LR09-20**

**IN THE MATTER** of an appeal, under  
Section 25 of the Rental of Residential  
Property Act, by Wayne McInnis against  
Order No. LD-218, of the Director of  
Residential Rental Property, dated July 30,  
2009.

**BEFORE THE COMMISSION**

On Friday, the 23<sup>rd</sup> day of October, 2009.

Maurice Rodgerson, Chair  
David Holmes, Commissioner  
Ernest Arsenault, 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 Wayne MacInnis against  
Order No. LD09-218, of the Director of  
Residential Rental Property, dated July 30,  
2009.**

---

# Order

---

## Introduction

On August 19, 2009, the Commission received a Notice of Appeal filed by Wayne MacInnis (Mr. MacInnis). The Appellant appealed Order No. LD09-218 issued by the Office of the Director of Residential Rental Property (the Director) on July 31, 2009.

By way of background, the Kay Reynolds Centre, as represented by Atlantic Peoples Housing Limited (the Centre) filed with the Director a Form 4 Notice of Termination by Lessor of Rental Agreement (Notice of Termination) dated July 8, 2009. On July 17, 2009, the Director received a Form 6 Application by Lessee to Set Aside Notice of Termination (Application to Set Aside) filed by Mr. MacInnis. In Order LD09-218, the Director found that the rental agreement between Mr. MacInnis and the Centre was to remain in effect until September 30, 2009, at which time the Appellant was to vacate the rental unit.

This appeal proceeded to a hearing before the Commission on September 9, 2009. Mr. MacInnis testified at the hearing and was assisted by Canda MacNeil of the PEI Council of People with Disabilities. Marla Affleck testified for the Centre.

## Evidence

Mr. MacInnis told the Commission that he has been bothered by noise from the apartment below his apartment. The noise, which he describes as a booming sound, started about two weeks after he moved into the Centre. He believes another tenant is deliberately making this sound using a floor-to-ceiling bathroom assist pole. He regrets losing his temper. He believes that he cannot find another place to live because of the pending eviction, as the forms for Provincial housing ask whether the applicant has ever been evicted. He believes that he is being evicted because he has frequently complained about the noise.

Ms. MacNeil provided a letter, dated September 8, 2009, from Teresa MacKinnon, a Community Access Worker for the PEI Council of People with Disabilities. In this letter, Ms. MacKinnon notes having heard a loud, banging noise on July 22, 2009 while meeting with Mr. MacInnis in his apartment.

Ms. Affleck told the Commission that the Centre had investigated Mr. MacInnis' complaints. Other tenants have not complained and representatives of the Centre have not heard the alleged booming sound. Ms. Affleck noted that the

Centre is prepared to give Mr. MacInnis another extension to allow him additional time to find new housing.

### **Decision**

The Commission denies the appeal for the reasons that follow.

At the July 30, 2009 hearing before the Director, Mr. MacInnis agreed to vacate his apartment on September 30, 2009. The Commission notes that Mr. MacInnis was represented at the hearing by Ms. MacKinnon, who as noted earlier, is a Community Access Worker with the PEI Council of People with Disabilities. According to her September 8, 2009 letter, Ms. MacKinnon had personally heard the noise on July 22, 2009 and thus was aware of this information at the time of the July 30, 2009 hearing.

The Commission finds that Director's Order LD09-218 was not a decision imposed on the parties by the rental officer. On the contrary, Order LD09-218 reflected an agreement reached by the parties at the July 30, 2009 hearing.

The Commission ordinarily expects that a person who consents to an agreement will abide by the terms of that agreement. Mr. MacInnis was not on his own at the July 30, 2009 hearing: he had the benefit of the advice and assistance of Ms. MacKinnon. Accordingly, the Commission finds that there is no reason to overturn Order LD09-218.

The Commission therefore finds that the terms of Order LD09-218 remain in effect.

However, the Commission notes that the Centre has offered to extend the rental agreement for a period of time to allow Mr. MacInnis additional time to find new housing. The Commission notes that the Centre is free to extend the rental agreement as they see fit.

---

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

### **IT IS ORDERED THAT**

1. Order LD09-218 is hereby confirmed in its entirety.

**DATED** at Charlottetown, Prince Edward Island, this 23<sup>rd</sup> day of October, 2009.

**BY THE COMMISSION:**

\_\_\_\_\_  
(Sgd.) *Maurice Rodgerson*

Maurice Rodgerson, Chair

\_\_\_\_\_  
(Sgd.) *David Holmes*

David Holmes, Commissioner

\_\_\_\_\_  
(Sgd.) *Ernest Arsenault*

Ernest Arsenault, 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)