



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR09026  
Order LR09-27**

**IN THE MATTER** of an appeal, under  
Section 25 of the Rental of Residential  
Property Act, by Dave Gillis against Order  
No. LD09-304, of the Director of Residential  
Rental Property, dated October 5, 2009.

**BEFORE THE COMMISSION**  
on Thursday, the 26<sup>th</sup> day of November, 2009.

John Broderick, Commissioner  
Allan Rankin, Vice-Chair  
David Holmes, Commissioner

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# Order

Compared and Certified a True Copy

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(Sgd.) Susan Jefferson  
Commission Administrator

**IN THE MATTER** of an appeal, under  
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## Introduction

On October 6, 2009, the Commission received a Notice of Appeal filed by Dave Gillis (Mr. Gillis). Mr. Gillis has appealed Order No. LD09-304 issued by the Office of the Director of Residential Rental Property (the Director) on October 5, 2009.

By way of background, Bonnie Morrison (Ms. Morrison) the representative of Brent and Annette Milligan (the Milligans) filed with the Director a Form 4 Notice of Termination by Lessor of Rental Agreement dated August 31, 2009 (the Notice of Termination). On August 31, 2009, the Director received a Form 6 Application by Lessee to Set Aside Notice of Termination (Application to Set Aside) filed by Mr. Gillis.

In Order LD09-304, the Director found that:

- “1. As the lessees defaulted on the September 20, 2009 rent payment, the rental agreement between the lessors and the lessees shall terminate as of 12:00 midnight, September 27, 2009. The lessees must vacate the residential premises on or before 12:00 midnight, September 27, 2009.*
- 2. The lessee’s claim that they paid \$300.00 to the lessors is not valid. The lessees shall pay the sum of \$300.00 to the lessors on or before October 12, 2009.”*

This appeal proceeded to a hearing before the Commission on October 15, 2009. Mr. Gillis was present and testified at the hearing. Ms. Morrison represented the Milligans and testified at the hearing.

## Evidence

Mr. Gillis told the Commission that, at the hearing before the Director, he was pressured into entering into an agreement. He stated that it was unreasonable for him to pay \$1200.00 in two or three days. He noted that he offered partial payment of \$125.00 on September 20, 2009 but Ms. Morrison would not accept that payment. He stated that Ms. Morrison has little knowledge of the past dealings between the parties as she only became property manager in late August 2009. He noted that Ms. Morrison’s mother had accepted partial payments in the past.

Mr. Gillis noted that there was an oral agreement between the parties for rent payable at the rate of \$500.00 per month. At first, the monthly rent was due on the 1<sup>st</sup> day of each month. It was then agreed to change this due date to the 20<sup>th</sup> of each month. In July 2009, Mr. Gillis stopped working and he fell behind on the rent. He left \$300.00 “in the door” in August 2009.

Ms. Morrison told the Commission that Mr. Gillis was up to date with rent from May 2008 to March 2009. He then fell behind. He was caught up in his rent by June 20, 2009. He then fell behind again. The \$300.00 he claims to have paid in August 2009 was never received. He paid \$700.00 on September 17, 2009. He was to pay \$500.00 on September 20, 2009, but he only had \$125.00 and Ms. Morrison refused to accept that sum. She offered that he could pay up until midnight that night but the \$500.00 was not paid.

### **Decision**

The Commission finds that Director’s Order LD09-304 enshrines an agreement between the parties, reached during the September 17, 2009 hearing before the Director. Mr. Gillis was to pay \$700.00 on or before 5:00 p.m. on September 18, 2009. The evidence before the Commission is that he paid this sum prior to that deadline. However, Mr. Gillis also agreed to pay \$500.00 on or before 7:00 p.m. on September 20, 2009. Instead, he offered \$125.00 to Ms. Morrison and she refused to accept that amount.

The agreement in Order LD09-304 is quite clear: if the payment schedule is not met, the rental agreement terminates seven days after the date of payment default. That Order also required payment of the ‘missing’ \$300.00 on or before October 12, 2009.

Order LD09-304 found that the rental agreement was terminated as of 12:00 midnight September 27, 2009 and that Mr. Gillis must vacate the residential premises on or before that date and time.

The Commission finds that there is no error in the Director’s Order. Mr. Gillis failed to meet the agreed payment schedule set in the Director’s Order, and accordingly, the Commission denies this appeal. Order LD09-304 is hereby confirmed.

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**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 LD09-304 is hereby confirmed.**

**DATED** at Charlottetown, Prince Edward Island, this 26<sup>th</sup> day of November, 2009.

**BY THE COMMISSION:**

(Sgd.) *John Broderick*

John Broderick, Commissioner

(Sgd.) *Allan Rankin*

Allan Rankin, Vice-Chair

(Sgd.) *David Holmes*

David Holmes, Commissioner

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**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.*

**NOTICE: IRAC File Retention**

In accordance with the Commission's Records Retention and Disposition Schedule, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.

IRAC141y-SFN(2009/11)