



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR09039
Order LR10-09**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Ed Keunecke against Order
No. LD09-366 of the Director of Residential
Rental Property, dated November 27, 2009

BEFORE THE COMMISSION
on Thursday, the 28th day of January, 2010.

Allan Rankin, Vice-Chair
Anne Petley, Commissioner
Chester MacNeill, 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 Ed Keunecke against Order
No. LD09-366 of the Director of Residential
Rental Property, dated November 27, 2009**

Order

On December 21, 2009, the Commission received a Notice of Appeal filed by the Appellant, Ed Keunecke (Mr. Keunecke). Mr. Keunecke appealed Order No. LD09-366 issued by the Office of the Director of Residential Rental Property (the Director) on November 27, 2009.

This matter concerns residential premises situated at 177 North River Road, Charlottetown, Prince Edward Island, said premises owned by Meike Keunecke (Mrs. Keunecke).

By way of background, Mr. Keunecke filed with the Director a series of Form 4 Notices of Termination by Lessor of Rental Agreement (Notices of Termination). Three Notices of Termination were dated September 8, 2009, one Notice of Termination was dated September 10, 2009 and one Notice of Termination was dated September 24, 2009. Josephine Edge (Ms. Edge) filed with the Director a Form 6 Application by Lessee to Set Aside Notice of Termination, dated September 15, 2009.

In Order LD09-366 the Director found:

“As a result of the finding that the Officer could not make a ruling on the Notice of Termination dated September 8, 2009 regarding the non-payment of rent and that the other three Notices of Termination are not valid, the Officer therefore finds that the lessee’s application to set aside the Notice of Termination is valid.”

The Director then ordered that:

- 1. The lessee’s application to set aside the Notices of Termination is valid.*
- 2. The Officer cannot make a ruling on the Notice of Termination by Lessor of Rental Agreement dated September 8, 2009 to be effective September 28, 2009.*
- 3. The Notice of Termination by Lessor of Rental Agreement dated September 8, 2009 to be effective October 8, 2009 is not valid.*
- 4. The second Notice of Termination by Lessor of Rental Agreement dated September 8, 2009 to be effective October 8, 2009 is not valid.*
- 5. The Notice of Termination by Lessor of Rental Agreement dated September 24, 2009 to be effective November 24, 2009 is not valid.*
- 6. The rental agreement between the lessee and the lessor for the residential premises shall remain in effect.”*

The appeal proceeded to a hearing on January 18, 2010. Mr. Keunecke did not show up at the hearing. Ms. Edge had previously advised Commission staff that she would not be present at the hearing.

On January 12, 2010, Commission staff mailed a Notice of Appeal Hearing to Mr. Keunecke at the address noted on his Notice of Appeal. A Notice of Appeal Hearing was also mailed to Ms. Edge. The Notice of Appeal Hearing stated in part:

TAKE NOTICE that a hearing into the attached appeal will be held by The Island Regulatory and Appeals Commission on **Monday, January 18, 2010** at the National Bank Tower, 5th Floor, 134 Kent Street, Charlottetown, P.E.I., at **9:30 a.m.**

The Commission finds that the onus lies on an appellant to pursue an appeal. Mr. Keunecke was informed of the date, time and location of the appeal hearing. Mr. Keunecke did not request to participate in the hearing by telephone and he did not ask that his appeal hearing proceed in his absence.

For the above reasons, the Commission finds that Mr. Keunecke abandoned his appeal, and accordingly, this appeal is hereby dismissed. Accordingly, Order No. LD09-366 issued by the Office of the Director of Residential Rental Property on November 27, 2009 remains in full force and effect.

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 dismissed.**
2. **Order LD09-366 issued by the Office of the Director of Residential Rental Property on November 27, 2009 remains in full force and effect.**

DATED at Charlottetown, Prince Edward Island, this **28th** day of **January, 2010**.

BY THE COMMISSION:

(Sgd.) *Allan Rankin*
Allan Rankin, Vice-Chair

(Sgd.) *Anne Petley*
Anne Petley, Commissioner

(Sgd.) *Chester MacNeil*
Chester MacNeill, 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.

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)