



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR09035  
Order LR10-10**

**IN THE MATTER** of an appeal, under  
Section 25 of the Rental of Residential  
Property Act, by Christina Whyatt against  
Order LD09-386 of the Director of Residential  
Rental Property dated December 8, 2009.

**BEFORE THE COMMISSION**  
on Wednesday, the 3rd day of February,  
2010.

John Broderick, Commissioner  
David Holmes, Commissioner  
Anne Petley, 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  
Section 25 of the Rental of Residential  
Property Act, by Christina Whyatt against  
Order LD09-386 of the Director of Residential  
Rental Property dated December 8, 2009.

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# Order

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## INTRODUCTION

On December 9, 2009 the Commission received a Notice of Appeal filed by Christina Whyatt (Ms. Whyatt).

By way of background, Souris Family Housing (the Respondent) provided to Ms. Whyatt a Form 4 – Notice of Termination by Lessor of Rental Agreement dated October 27, 2009. On November 5, 2009, Ms. Whyatt filed with the Office of the Director of Residential Rental Property (the Director) a Form 6 – Application by Lessee to Set Aside Notice of Termination.

In Order LD09-386:

“The Director finds that the Notice of Termination dated October 27, 2009, was validly given, and dismisses the lessee’s application to set aside that Notice of Termination except to the extent that the date by which Ms. Whyatt must vacate the premises is extended to January 11, 2010.”

The appeal was heard by the Commission on December 30, 2009. Ms. Whyatt represented herself and the Respondent was represented by Jeremy Lewis.

## EVIDENCE

Ms. Whyatt advised that she has made progress in reducing clutter in the residential premises. She throws away unnecessary items at her own pace and noted that she “cannot do things at speed”. She stated that she has to be the one to decide what to toss and what to keep.

Mr. Lewis advised that the Respondent has been very patient dealing with Ms. Whyatt. Mr. Lewis stated the Respondent offered assistance to help Ms. Whyatt dispose of the clutter.

## DECISION

The appeal is denied for the reasons that follow.

The onus is on Ms. Whyatt to satisfy the Commission that she has reduced the clutter in the residential premises to meet the safety concerns noted in Order LD09-386. Unfortunately, Ms. Whyatt did not provide the Commission with new pictures to document the state of the premises as of the hearing date. Based on the evidence before the Commission, the Commission finds that there is no basis to reverse the Director's order.

The Commission denies the appeal and confirms Order LD09-386 subject to the following:

1. The date by which Ms. Whyatt must vacate the premises is extended to February 28, 2010.
2. Ms. Whyatt may, in the spring of 2010 and after first making arrangements with the Respondent for an appropriate date and time, remove her plants, shrubs or trees that she has planted outside the premises.

While not binding on the Respondent, the Respondent may wish to consider performing a follow up inspection of the premises and the Respondent would be free, at its sole discretion, to decide to not pursue the termination of the rental agreement.

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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 denied.
2. Christina Whyatt must vacate 1 Cardinal Avenue, Souris Prince Edward Island by February 28, 2010.
3. Christina Whyatt may, in the spring of 2010 and after first making arrangements with Souris Family Housing for an appropriate date and time, remove any outside plants, shrubs or trees that she has planted outside the residential premises of 1 Cardinal Avenue.
4. In all other respects, Order LD09-386 is hereby confirmed.

**DATED** at Charlottetown, Prince Edward Island, this 3rd day of  
February, 2010.

**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.*

**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)