



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR10009
Order LR10-16**

IN THE MATTER of an appeal, by Greg
Bradley, against a decision of the Director of
Residential Rental Property dated April 13,
2010.

BEFORE THE COMMISSION
on Wednesday, the 12th day of May, 2010.

John Broderick, Commissioner
Ernest Arsenault, Commissioner
David Holmes, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson
Commission Administrator

IN THE MATTER of an appeal, by Greg Bradley, against a decision of the Director of Residential Rental Property dated April 13, 2010.

Order

On April 29, 2010, the Appellant Greg Bradley (Mr. Bradley) filed an appeal of Order LD10-099 issued by the Office of the Director of Residential Rental Property (the Director) dated April 13, 2010.

In Order LD10-099, the Director denied the request by the Respondent Waterside Farm Vacation House Inc. (Waterside) for an early termination of the rental agreement. However, the Director determined that the Notice of Termination, dated March 2, 2010 to be effective April 30, 2010, was valid.

The Commission heard the appeal on May 10, 2010. Mr. Bradley represented himself and also testified. Scott Barry represented Waterside. John Jeffrey testified for Waterside. Drew Jeffrey was also present.

The parties presented, and attempted to present, a considerable amount of evidence not relevant to this particular appeal. As Waterside did not appeal Order LD10-099, the sole issue before the Commission is whether the Director correctly followed the **Rental of Residential Property Act** (the **Act**) in determining that the March 2, 2010 Notice of Termination lawfully terminated the oral rental agreement between the parties effective April 30, 2010.

The relevant evidence before the Commission from Mr. Bradley was that the oral rental agreement between the parties terminates on May 31, 2010. Mr. Bradley noted that he had provided a series of post dated cheques, up to and including May 1, 2010, to Waterside and Waterside did not return the May 1, 2010 cheque. Mr. Bradley submitted that this action, or inaction, on the part of Waterside served as confirmation that the rental agreement was originally intended to terminate on May 31, 2010.

The relevant evidence of Waterside was that the oral rental agreement was always intended to terminate on April 30, 2010. Waterside did not notice that the group of post-dated cheques included a cheque for May rent, dated May 1, 2010. Waterside provided Mr. Bradley with ample written notice that it would terminate the rental agreement effective April 30, 2010.

The Commission finds that Waterside served the March 2, 2010 Form 4 Notice of Termination on Mr. Bradley on March 18, 2010. Section 33(2)(b) of the **Act** provides for service of a notice "*by posting it in a conspicuous place upon some part of the premises or a door leading thereto*". The Commission finds that Mr. Bradley did not apply to the Director to set aside the Notice of Termination within ten days of service. Pursuant to section 16(3) of the **Act**, Mr. Bradley was therefore deemed to have accepted the termination of the rental agreement on the effective date of the Notice of Termination.

Accordingly, the Commission agrees with the reasoning provided by the Director and finds that the rental agreement between Mr. Bradley and Waterside was terminated effective April 30, 2010.

Once again, the Commission wishes to point out that some of the frustrations and uncertainty of the landlord and tenant relationship may be prevented through the simple expedient of a written rental agreement signed by both parties. Further, any amendments or extensions to such rental agreement should also be in writing and signed by both parties.

The Commission notes that the conduct of both parties at the May 10, 2010 hearing was highly inappropriate. At the hearing, the parties repeatedly interrupted each other's presentation and unnecessary accusations were made. The Commission wishes to put the parties and counsel, and indeed the general public, on notice that, in future, such outbursts shall not be tolerated.

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. **The Commission confirms Order LD10-099 in its entirety.**
3. **The Appellant Greg Bradley shall vacate the residential premises situate at 361 Waterside Road, RR1 Charlottetown Prince Edward Island on or before 5:00 p.m. on Saturday, May 15, 2010.**

DATED at Charlottetown, Prince Edward Island, this 12th day of May, 2010.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Ernest Arsenault

Ernest Arsenault, Commissioner

(Sgd.) David Holmes

David Holmes, 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)