



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**
Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11002
Order LR11-06**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Rui Jiang Li against Order
LD11-023 of the Director of Residential
Rental Property dated January 21, 2011

BEFORE THE COMMISSION
on Thursday, the 3rd day of March, 2011.

John Broderick, Commissioner
Michael Campbell, Commissioner
Leonard Gallant, 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 Rui Jiang Li against Order
LD11-023 of the Director of Residential
Rental Property dated January 21, 2011**

Order

On January 24, 2011 the Commission received a Notice of Appeal dated January 23, 2011 from Rui (Rick) Jiang Li (the Appellant) requesting an appeal of Order LD11-023, dated January 21, 2011, said Order issued by the Director of Residential Rental Property (the Director).

By way of background, the Appellant served Tammy Holme with a Form 4 – Notice of Termination by Lessor of Rental Agreement dated December 29, 2010. On January 7, 2011, Doug Carver filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination.

Order LD11-023 states, in part:

“IT IS ORDERED THAT

- 1. The lessee’s application to set aside the Notice of Termination is valid.*
- 2. The Notice of Termination dated December 29, 2010 to be effective January 31, 2011 is not valid.*
- 3. The rental agreement between the lessees and the lessor for the residential premises shall remain in effect.”*

The Commission heard this appeal on February 3, 2011. The Appellant was present. Tammy Holme and Doug Carver (the Respondents) were also present.

EVIDENCE

The Appellant testified that on two occasions, once in October 2010 and once in November 2010, he observed that the Respondent’s apartment was “very messy and dirty”. The Appellant told the Commission that he was in the process of buying the apartment building at the time but did not yet own the building. He believes that the previous owner had given the Respondents the required pre-inspection notice, but he is not sure of this.

The Appellant testified that in December 2010, when he went to collect rent from the Respondents, he stood in the doorway and the condition of the apartment looked the same as it had in mid November. As a result of this observation, he issued the Form 4 Notice of Termination. The Appellant stated that he did not want to risk the health of the other tenants in the building. The Appellant stated that the pictures filed by the Respondents showing the apartment clean and tidy were taken after the Form 4 Notice of Termination was issued.

The Respondents testified that the Appellant never informed them of his concerns until they received the Form 4 Notice of Termination on December 29, 2010. The Respondents explained that they had on hand several recycling bags filled as a result of cleaning other units in the building. They acknowledge that the apartment “wasn’t 100%” the days the Appellant showed up. They explained that the flies the Appellant had noticed were fruit flies. They also noted that field mice are a common problem and can enter almost any home if there are holes present. They also noted that, as they have small children, there were bags of outgrown children’s clothes. They also noted that they placed storage bins in front of their DVDs to keep their children away from the DVDs. The Respondents acknowledged that the pictures they took of the inside of the apartment were taken shortly before the January 18, 2011 hearing before the Director.

The Commission finds that the evidence before the Commission does not support reversing the decision of the Director. In addition, other than what he observed from standing in the doorway, there is no evidence presented by the Appellant concerning the condition of the apartment after he took ownership of the apartment building on November 30, 2010.

There is evidence that the cleanliness and tidiness of the apartment has significantly improved since the Form 4 Notice of Termination was filed and this will hopefully continue in the future.

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 LR11-023 is hereby confirmed and remains in full force and effect.**

DATED at Charlottetown, Prince Edward Island, this **3rd** day of **March**,
2011.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Michael Campbell

Michael Campbell, Commissioner

(Sgd.) Leonard Gallant

Leonard Gallant, 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)