



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR11008  
Order LR11-11**

**IN THE MATTER** of an appeal, under section 25 of the Rental of Residential Property Act, by Cheryl Campbell against Order LD11-109 of the Director of Residential Rental Property dated May 6, 2011.

**BEFORE THE COMMISSION**  
on Wednesday, the 25th day of May, 2011.

John Broderick, Commissioner  
Ferne MacPhail, Commissioner  
Peter McCloskey, 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 Cheryl Campbell against  
Order LD11-109 of the Director of Residential  
Rental Property dated May 6, 2011.

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# Order

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On May 11, 2011 the Commission received a Notice of Appeal from Cheryl Campbell (the Appellant) requesting an appeal of Order LD11-109, dated May 6, 2011, said Order issued by the Director of Residential Rental Property (the Director).

By way of background, Westridge Estates Co-operative, as represented by its agent Atlantic Peoples Housing, (the Respondent) served the Appellant with a Form 4 – Notice of Termination by Lessor of Rental Agreement dated April 5, 2011. On April 27, 2011, the Respondent filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement.

On May 6, 2011 the Director issued Order LD11-023 which states, in part:

*“IT IS ORDERED THAT*

1. *Possession of the residential premises be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises at 12:00 noon, Wednesday, May 11, 2011.”*

The Commission heard this appeal on May 19, 2011. The Appellant was present and the Respondent was represented by Dan Murray.

## EVIDENCE

The Appellant presented three letters of support. The Appellant stated that the Respondent has been trying to evict her for reasons other than non-payment of rent. She submitted that even if she did pay all her arrears of rent, she would have to vacate the unit as her membership in the cooperative had been terminated. She stated that she is having financial problems and does not have the money right now but the money is coming.

Mr. Murray stated that the Respondent has not received any payment of rental arrears. The Respondent would like to have possession of the unit on Monday May 23, 2011.

The Commission agrees with the findings of the Director that the Appellant was served with a Notice of Termination dated April 5, 2011 to be effective April 25, 2011 because she failed to pay the total outstanding rent in the amount of \$1,331.00 which was due on April 1, 2011. The Appellant failed to invalidate the Notice of Termination when she did not pay the total outstanding rent within ten days of receiving the Notice of Termination. Further, the Commission finds that the Appellant has not paid the total outstanding rent, or even a portion of it, as of the May 19, 2011 hearing date. There is no error in the Director's decision and no new evidence to support changing the Director's decision.

Accordingly, the appeal is denied.

The Commission hereby orders that the residential premises be surrendered to the Respondent and the Sheriff is hereby directed to put the Respondent in possession of the residential premises at 12:00 noon, Tuesday, May 31, 2011.

**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 hereby orders that the residential premises located at 19 Westridge Crescent in Charlottetown be surrendered to the Respondent Westridge Estates Co-operative and the Sheriff is hereby directed to put the Respondent Westridge Estates Co-Operative in possession of the residential premises at 12:00 noon, Tuesday, May 31, 2011.

**DATED** at Charlottetown, Prince Edward Island, this 25th day of May, 2011.

**BY THE COMMISSION:**

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Ferne MacPhail

Ferne MacPhail, Commissioner

(Sgd.) Peter McCloskey

Peter McCloskey, 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)