



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11014
Order LR11-18**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Laurel Christensen against
Order LD11-117 issued by the Office of the
Director of Residential Rental Property dated
May 17, 2011.

BEFORE THE COMMISSION
on Tuesday, the 14th day of June, 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 Laurel Christensen against
Order LD11-117 issued by the Office of the
Director of Residential Rental Property dated
May 17, 2011.**

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INTRODUCTION

On May 30, 2011 the Commission received a Notice of Appeal from Laurel Christensen (the Appellant) requesting an appeal of Order LD11-117 issued by the Director of Residential Rental Property (the Director) on May 17, 2011.

By way of background, on April 8, 2011 the Appellant filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination. Also received that day were three Form 4 documents, Notice of Termination by Lessor of Rental Agreement, signed by the Respondent Eddie MacKenzie (the Respondent). Particulars of these documents are as follows:

1. Notice of Termination dated April 7, 2011 to be effective April 28, 2011 regarding failure to pay rent;
2. Notice of Termination dated April 7, 2011 to be effective May 8, 2011 regarding ordinary cleanliness of the premises;
3. Notice of Termination dated April 7, 2011 to be effective June 8, 2011 regarding the lessors wanting possession of the unit for occupation by a family member.

The matter was heard by the Director on April 28, 2011 and Order LD11-117 states, in part:

IT IS THEREFORE ORDERED THAT

1. *The lessee's application to set aside the Notices of Termination is denied.*
...
4. *The Notice of Termination by Lessor of Rental Agreement dated April 7, 2011 to be effective June 8, 2011 is valid.*
5. *The rental agreement between the lessee and the lessors for the residential premises is hereby terminated as of June 8, 2011. The lessee must vacate the residential premises on or before this date.*

The Director determined that the Notice of Termination dealing with “ordinary cleanliness” was not valid and the Director could not make a ruling concerning the Notice of Termination with respect to rent as that particular matter is before the Supreme Court.

The Commission heard this appeal on June 8, 2011. The Appellant was present as well as the Respondent.

EVIDENCE

The Appellant testified that she believes the residential premises are not needed for the Respondent’s father. She introduced into evidence Kijiji postings to demonstrate that there were other residential units that the Respondent could use to accommodate his father. She also told the Commission about various deficiencies with the residential premises, including problems with heat. The Appellant paid her rent for the month of June and notes that the Respondent cashed her cheque but acknowledged that, due to a rental increase effective that month, she owes an additional \$11.00.

The Respondent testified that the Kijiji ads run regularly whether or not a unit is actually available as there are 24 units in the apartment complex. He explained that one unit will be available at the end of June, but it would not be suitable for his father. He explained that the Appellant’s unit is the best unit in the apartment complex. He also noted that as the Appellant never asked for one of the other units she was never offered one of them.

DECISION

The Commission hereby denies this appeal. Upon a review of Director’s Order LD11-117, the Commission agrees with the reasoning given by the Rental Officer.

Clause 15(1)(a) of the ***Rental of Residential Property Act*** reads as follows:

15. (1) Where the lessor in good faith seeks to

(a) have possession of the premises for occupation by himself, his spouse, children or parents, or the parents of his spouse;

...

the lessor may serve the lessee with a notice of termination to be effective not less than two months after it is served.

The Commission is satisfied that the Respondent’s father will be moving into the Appellant’s unit and on that basis, the Respondent in good faith is terminating the rental agreement with the Appellant for this particular unit.

However, the Commission hereby varies the rental agreement termination date to June 30, 2011 as the Appellant has paid her rent for the month of June and the Respondent has accepted that rent payment.

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. Director's Order LD11-117 is confirmed in all respects, with the exception that the rental agreement termination date of June 8, 2011 is hereby varied to June 30, 2011.
3. Accordingly, the Appellant (lessee) must vacate the residential premises on or before June 30, 2011.

DATED at Charlottetown, Prince Edward Island, this **14th** day of **June**, 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)