



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11028
Order LR11-32**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Mindy Dawn Gallant against
Order LD11-268 issued by the Director of
Residential Rental Property dated October
21, 2011

BEFORE THE COMMISSION
on Tuesday, the 1st day of November, 2011.

John Broderick, Commissioner
Leonard Gallant, Commissioner
Ferne MacPhail, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Land, Corporate and Appellate Services Division

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**Section 25 of the Rental of Residential
Property Act, by Mindy Dawn Gallant against
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BACKGROUND

On October 24, 2011, the Commission received a Notice of Appeal filed by Mindy Dawn Gallant (the Appellant). The Appellant appealed Order LD11-268 issued by the Office of the Director of Residential Rental Property (the Director) on October 21, 2011.

By way of background, on October 6, 2011 Summerside Housing Authority (the Respondent) filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated September 27, 2011 together with a copy of a Form 4 – Notice of Termination by Lessor of Rental Agreement dated August 16, 2011.

The matter was heard by the Director on October 20, 2011. In Order LD11-268 the Director terminated the rental agreement between the parties and ordered the Appellant to vacate the premises on or before 12:00 noon, November 1, 2011.

The Commission heard this appeal on October 28, 2011. The Appellant was present. The Respondent was represented by Jeff Sullivan who participated by telephone.

EVIDENCE

The appellant submitted that she has made several positive changes in her life and is in a better position to pay her rent on a timely basis in the future.

She testified that she has looked for alternative living arrangements but has been unsuccessful in finding affordable accommodations for her and her family.

The appellant noted that she had a money order with her at the hearing on October 20, 2011 to bring her rent up to date; however the Respondent would not accept it.

The Respondent testified that the Appellant is frequently in arrears in her rent payments. The Respondent provided a payment ledger to support his statement.

The Respondent stated that the appellant has been given warnings in the past. He noted that on two occasions the Appellant has been given a Notice of Termination but has averted the termination by partial payment of the arrears.

In his testimony, the Respondent stated that if it had not been for the social problems alleged by some of the Appellant's neighbors, the Respondent may have been willing to do something additional for the Appellant in terms of "perhaps more time or accepting yet again a payment agreement".

DECISION

The Commission having considered all the evidence before it hereby allows the appeal. The Commission finds that the rental agreement is still in effect and sets out specific conditions for payment of rent in the Order.

The Commission is satisfied that the Appellant has made major changes in her life that may impact on her ability to pay rent.

The Commission notes that the Respondent's testimony states that if there had not been complaints of social problems by neighbours, the Respondent may have been willing to grant additional time and may have entered into a new payment agreement with the Appellant. It may very well be said that there is an expectation that a social housing agency will show more tolerance to its clients than that expected from a private, for profit landlord.

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 allowed.**
2. **The Commission hereby reverses Order LD11-268 and orders a conditional continuation of the rental agreement and the occupancy of the Appellant, subject to the conditions that follow.**
3. **The Appellant makes the following rent payments to the Respondent on the dates specified:**

Friday, November 4, 2011 – Payment of \$750.00

Wednesday, November 18, 2011 – Remainder of arrears, \$484.00, paid in full.

December 1, 2011 – Full rent for December, 2011

January 1, 2012 – Full rent for January, 2012 and full rent on the first of each and every month thereafter.

- 4. If, during the twelve (12) month period following the date of this order, any of the above conditions have not been satisfied, the Respondent is entitled to make a new Form 4 application through the Director. However, to expedite matters, the Respondent may, in addition, file a written request for review of the Commission’s decision along with evidence pertaining to any alleged breach of the above conditions and the Commission will hear such request for review and may review, rescind or vary this Order pursuant to section 12 of the *Island Regulatory and Appeals Commission Act*.**

DATED at Charlottetown, Prince Edward Island, this **1st** day of **November**, **2011**.

BY THE COMMISSION:

John Broderick, Commissioner

Leonard Gallant, Commissioner

Ferne MacPhail, 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)