



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR10021
Order LR11-33**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Christopher Higgins against
Order LD10-256 of the Director of Residential
Rental Property, dated September 9, 2010

BEFORE THE COMMISSION
on Monday, the 7th day of November, 2011.

Allan Rankin, Vice-Chair
Michael Campbell, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Land, Corporate and Appellate Services Division

**IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Christopher Higgins against
Order LD10-256 of the Director of Residential
Rental Property, dated September 9, 2010**

Order

On September 17, 2010 the Commission received a Notice of Appeal signed by the lessor Christopher Higgins (Mr. Higgins) requesting an appeal of Order LD10-256 dated September 9, 2010 issued by the Director of Residential Rental Property (the Director).

The Commission heard this appeal on October 14, 2010. In the document record filed by the Director prior to said hearing, Mr. Higgins is referred to as both "Chris Higgins" and "Christopher Higgins." Mr. Higgins was present at the hearing. The lessee Tyler MacKenzie (Mr. MacKenzie) was also present at the hearing.

In Order LR10-29 issued on November 16, 2010 the Commission denied the appeal and confirmed Director's Order LD10-256 subject to the correction of a typographical error. The Commission amended the Director's Order to read:

"IT IS THEREFORE ORDERED THAT

1. *The lessor shall pay to the lessee the sum of \$400.00.*
2. *Payment shall be made upon the expiry of the appeal period."*

On November 7, 2011, Commission staff was advised by the Supreme Court of Prince Edward Island that Mr. MacKenzie has commenced a judgment with respect to the enforcement of Order LR10-29.

Section 12 of the ***Island Regulatory and Appeals Commission Act*** reads as follows:

12. *The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it, or rehear any application before deciding it. 1991,c. 18,s. 12.*

The Commission has reviewed Director's Order LD10-256 which identifies the "residential premises" in question as "304 Richmond Street, Charlottetown, PE" and notes that said Order stated:

AND WHEREAS the evidence discloses that the owners of the property are Christopher and Shelley Higgins, and this Order reflects that amendment to the application.

On November 7, 2011 the Commission directed Commission staff to perform a Geolinc Plus search on 304 Richmond Street, Charlottetown, Queen's County, Prince Edward Island in order to precisely determine the names of the registered owners of said property. Based on this search, the most recent registered deed pertaining to 304 Richmond Street, Charlottetown was filed on September 2, 2008 at Book 5215, Document 6943 at the Office of the Registry of Deeds for Queen's County. The Grantees of this aforementioned deed are specified as "Chris Higgins" and "Shelley Higgins".

On the basis of the aforementioned search, the Commission finds that the owners of 304 Richmond Street Charlottetown are Chris Higgins and Shelley Higgins. Based on the appeal record before the Commission, the Commission finds that "Chris Higgins" and "Christopher Higgins" is the same person.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*, the Commission hereby varies Order LR10-29 to read as follows:

IT IS ORDERED THAT

1. The appeal is denied.
2. The Director's Order LD10-256 is hereby confirmed, subject to the correction of a typographical error, that portion of said Order amended to now read:

"IT IS THEREFORE ORDERED THAT

1. The lessors Chris Higgins, also known as Christopher Higgins, and Shelley Higgins shall pay to the lessee Tyler MacKenzie the sum of \$400.00.
2. Payment shall be made upon the expiry of the appeal period."

DATED at Charlottetown, Prince Edward Island, this **7th** day of **November**, 2011.

BY THE COMMISSION:

(sgd. Allan Rankin)
Allan Rankin, Vice-Chair

(sgd. Michael Campbell)
Michael Campbell, 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)