



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR12004
Order LR12-05**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Yi Ping Zhu against Order
LD12-036 issued by the Director of
Residential Rental Property dated February
1, 2012

BEFORE THE COMMISSION
on Wednesday, the 15th day of February,
2012.

John Broderick, Commissioner
Michael Campbell, Commissioner
Jean Tingley, 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 Yi Ping Zhu against Order
LD12-036 issued by the Director of
Residential Rental Property dated February
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BACKGROUND

On February 7, 2012 the Commission received a Notice of Appeal dated February 7, 2012 from Yi Ping Zhu (the Appellant) requesting an appeal of Order LD12-036 dated February 1, 2012, said Order issued by the Director of Residential Rental Property (the Director).

By way of background, on January 25, 2012 Sunshine Property Rentals (the Respondent) filed with the Director a Form 5 – Application by Lessor for Earlier Termination dated January 25, 2012 to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated January 18, 2012.

The matter was heard by the Director on January 30, 2012. In Order LD12-036 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. The Notice of Termination dated January 18, 2012 to be effective February 18, 2012 is valid.
2. The lessor’s application for earlier termination is valid, and the lessee shall vacate the premises by noon on February 8, 2012.
3. If the lessee does not vacate the premises by noon on February 8, 2012, the lessor shall be entitled to apply without further notice to the lessee for an order directing the Sheriff to put him in possession of the premises.”

The Commission heard this appeal on February 14, 2012. The Appellant was present along with his spouse Xiao Li Chu. Samuel Wang was present, at the request of the Commission, to provide translation assistance. The Respondent was represented by Wayne Bevan and Betty Morrison.

EVIDENCE

The Appellant told the Commission that he and his family need an additional one to two weeks to find another suitable apartment. He stated that he believes the professional treatment services provided did not adequately treat the problem.

Mr. Bevan told the Commission that the Appellant and his family are being evicted from the apartment because they failed to follow the specific requirements of the treatment process. The treatment process must be followed precisely in order to eliminate the problem and avoid the possible spread to other units in the same building. Ms. Morrison told the Commission that she reviewed the treatment instructions with the Appellant and his family, and in particular, with his daughter who can read and write in English. Ms. Bevan then left a copy of the instructions with the Appellant's family.

Subsection 14(1)(e) of the **Rental of Residential Property Act** (the **Act**) reads as follows;

14. (1) The lessor may also serve a notice of termination upon the lessee where

...

(e) the safety or other lawful right or interest of the lessor or other lessee in the residential property has been seriously impaired by an act or omission of the lessee or a person permitted in or on the residential property or residential premises by him;

The Commission finds that the Appellant failed to follow the specific process required for the treatment of the apartment and the problem continues to exist. As a result of this omission, the Commission finds that subsection 14(1)(e) justifies a termination of the rental agreement and the Commission agrees entirely with the reasoning of the Director contained in Orders LD12-036 and LD12-036A.

Accordingly, the Commission confirms Orders LD12-036 and LD12-036A in their entirety.

For greater clarity, the Commission wishes to point out to the parties that the rental agreement has been terminated effective 12 noon on February 8, 2012.

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 Orders LD12-036 and LD12-036A are hereby confirmed in their entirety.**
- 3. For greater clarity, the rental agreement between the Appellant and the Respondent has been terminated effective 12 noon on February 8, 2012.**

DATED at Charlottetown, Prince Edward Island, this **15th** day of **February**,
2012.

BY THE COMMISSION:

(sgd.) John Broderick
John Broderick, Commissioner

(sgd.) Michael Campbell
Michael Campbell, Commissioner

(sgd.) Jean Tingley
Jean Tingley, 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)