



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR12007
Order LR12-09**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Randy MacWilliams against
Order LD12-051 issued by the Director of
Residential Rental Property dated February
22, 2012

BEFORE THE COMMISSION
on Thursday, the 15th day of March, 2012.

John Broderick, Commissioner
Allan Rankin, Vice-Chair
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 Randy MacWilliams against
Order LD12-051 issued by the Director of
Residential Rental Property dated February
22, 2012

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BACKGROUND

On March 9, 2012 the Commission received a Notice of Appeal dated March 9, 2012 from Randy MacWilliams (the Appellant) requesting an appeal of Order LD12-051 dated February 22, 2012 said Order issued by the Director of Residential Rental Property (the Director).

By way of background, on February 15, 2012 Felicia Wu (the Respondent) filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated February 15, 2012 to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated January 4, 2012.

The matter was heard by the Director on February 22, 2012. In Order LD12-051 the Director ordered:

“IT IS THEREFORE 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, Monday, February 27, 2012.”*

The appeal was heard by the Commission on March 14, 2012. Both the Appellant and Respondent were present.

EVIDENCE

The Appellant acknowledged that he fell behind in his rent payments. He noted that he recently offered a partial rent payment which the Respondent refused to accept. He told the Commission that the Respondent was an excellent landlord.

The Respondent told the Commission that the Appellant was a very good tenant who has fallen behind in his rent payments. The Respondent has run out of patience as the Appellant is over two months behind in his rent.

DECISION

Although sympathetic to the situation the Appellant finds himself in, the Commission denies the appeal and confirms Order LD12-051.

The Commission notes that in this matter there is no conflict between the parties as the Appellant acknowledges the Respondent to be a good landlord and the Respondent acknowledges the Appellant to be a good tenant. The Appellant has now paid his security deposit and a receipt for this has been issued by the landlord. The Commission believes that the Appellant is sincerely trying to pay his rent but is frustrated by his very limited financial resources. That said, the ***Rental of Residential Property Act*** (the ***Act***) requires that rent be paid and makes no allowance for non-payment of rent even if there is legitimate financial hardship. Accordingly, the Respondent is within her rights to pursue the remedy available under the ***Act***, the Director made a correct decision in Order LD12-051 and there is no new evidence before the Commission to support changing the Director's decision.

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 LD12-051 is hereby confirmed in its entirety.

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

BY THE COMMISSION:

John Broderick, Commissioner

Allan Rankin, Vice-Chair

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)