



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR12039
Order LR12-35**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Andrew Morrison against
Order LD12-350 dated December 11, 2012
issued by the Director of Residential Rental
Property.

BEFORE THE COMMISSION
on Wednesday, the 19th day of December,
2012.

John Broderick, Commissioner
Ferne MacPhail, 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 Andrew Morrison against
Order LD12-350 dated December 11, 2012
issued by the Director of Residential Rental
Property.

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BACKGROUND

On December 13, 2012 the Commission received a Notice of Appeal dated the same date signed by the lessee, Andrew Morrison (the Appellant) requesting an appeal of Order LD12-350 dated December 11, 2012 issued by the Director of Residential Rental Property.

By way of background, on November 23, 2012 two lessors, Reza Hoseinimousavi and Robabeh Jalali-Yazdi (the Respondents) filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated November 2, 2012.

The matter was heard by the Director on December 4, 2012 and in Order LD12-350 the Director ordered:

“IT IS ORDERED THAT

- 1. Possession of the residential premises be surrendered to the lessors and the Sheriff is directed to put the lessors in possession of the residential premises at 12:00 noon, December 14, 2012.”*

The hearing was held by the Commission on December 19, 2012. The Appellant was present. The Respondent Reza Hoseinimousavi was present and the Respondents were represented by Hashem Hossienimousavi.

EVIDENCE

The Appellant explained his concerns to the Commission. The Respondents explained their view of the situation to the Commission.

In summary, the Appellant believes that there are deficiencies in the residential premises that justify arrears of rent. In addition, the Appellant believes that the rent owed should be reduced as he was not able to move into the residential premises on October 1, 2012.

The Respondents advised that when a problem was brought to their attention they promptly arranged for repairs to be made.

DECISION

The Commission denies this appeal for the reasons set out in Order LD12-350. The Commission upholds Order LD12-350 in its entirety.

The Commission wishes to point out to the parties and the general public that tenants have an obligation to pay their rent and landlords have the obligation to make necessary repairs. A tenant is not to take the law into their own hands and withhold rent. If a tenant has a concern that repairs are not being made, they must continue to pay their rent but they may file an appropriate application with the Director in order to address the concern. In the present case, the Appellant did not do this.

The Commission wishes to point out to the parties and the public that there is nothing in the ***Rental of Residential Property Act*** to require increased notice of a termination of a rental agreement during the winter. While some persons seem to believe that greater notice is required during the winter, this notion or urban legend is false and is not the law in Prince Edward Island.

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. The Director's Order LD12-350 is upheld in its entirety.

DATED at Charlottetown, Prince Edward Island, this **19th** day of **December, 2012**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Ferne MacPhail)

Ferne MacPhail, 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)