



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR13010  
Order LR13-09**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Stacey MacDonald against  
Order LD13-139 dated May 22, 2013 issued  
by the Director of Residential Rental  
Property

**BEFORE THE COMMISSION**  
on Tuesday, the 11th day of June, 2013.

John Broderick, Commissioner  
Ferne MacPhail, Commissioner  
Jean Tingley, Commissioner

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# Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator  
Land, Corporate and Appellate Services Division

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On May 27, 2013 the Commission received a Notice of Appeal dated the same date and signed by the lessee, Stacey MacDonald (the “Appellant”) requesting an appeal of Order LD13-139 dated May 22, 2013 issued by the Director of Residential Rental Property (the Director).

By way of background, on May 7, 2013 the Appellant filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination dated April 7, 2013 to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated April 25, 2013 signed by Chris Reeves on behalf of the lessor, PEI Housing Corporation (the Respondent).

The matter was heard by the Director on May 17, 2013 and in Order LD13-139 the Director ordered:

**“IT IS THEREFORE ORDERED THAT**

- 1. The lessee’s application to set aside the Notice of Termination is not approved.**
- 2. The Notice of Termination dated April 25, 2013 for effect on May 29, 2013 is valid and the rental agreement between the parties is terminated effective June 30, 2013.**
- 3. The lessee shall vacate the premises on or before June 30, 2013.**
- 4. If the lessee fails to vacate the premises in accordance with this Order, then the lessor shall be entitled to apply without further notice to the lessee for an order directing the Sheriff to put the lessor in possession of the premises.”**

The matter was heard before the Commission on June 10, 2013. The Appellant was present. The Respondent was represented by Chris Reeves (Mr. Reeves) and Judy Butler (Ms. Butler). Exhibits E-1 through E-13 inclusive represent documents which were on file with the Director at the time the appeal was filed with the Commission.

The Appellant presented her evidence and filed Exhibits E-19 and E-20 with the Commission. The Appellant informed the Commission that she was willing to vacate the premises; however, she requested that the date be extended to August 30, 2013 in order to give her additional time to find a new residence.

Mr. Reeves presented evidence on behalf of the Respondent and filed Exhibits E-14 to E-18 inclusive with the Commission. Mr. Reeves requested that the Commission require the Appellant to vacate the residential premises by June 30, 2013.

Although the Commission heard evidence with respect to the merits of the appeal, the Commission finds that it does not have the jurisdiction to consider the Appellant's application to set aside the notice of termination. Section 16 of the ***Rental of Residential Property Act*** (the ***Act***) grants a lessee who has received a notice of termination the right to apply to the Director for an order setting aside the notice of termination. However, an application to set aside a notice of termination must be made not later than ten days after having been served with the notice of termination. If the application to set aside the notice of termination has not been received within the ten day period the lessee shall be deemed to have accepted the termination on the effective date of the notice.

In the present matter the Appellant's application to set aside the notice of termination was not received within the ten day period required under section 16.

The Commission finds that neither the Director nor the Commission has the discretion to alter the requirements of section 16 of the ***Act***.

With respect to the Director's ruling that the rental agreement be terminated and the Appellant vacate the residential premises by June 30, 2013, the Commission notes that the Form 4 Notice of Termination was dated April 25, 2013 and required the Appellant to vacate the residential premises by May 29, 2013. By terminating the rental agreement and requiring the Appellant to vacate the residential premises on June 30, 2013, the Director provided the Appellant with a little over two months' total notice. The Commission finds that the Director provided reasonable notice to the Appellant and the Commission will accordingly uphold Director's Order LD13-139 in its entirety.

**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 LD13-139 is upheld in its entirety and remains in full force and effect.**

**DATED** at Charlottetown, Prince Edward Island, this **11th** day of **June**,  
**2013**.

**BY THE COMMISSION:**

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(sgd. John Broderick)

John Broderick, Commissioner

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(sgd. Ferne MacPhail)

Ferne MacPhail, Commissioner

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(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)