



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR13014  
Order LR13-12**

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Rental Property Act, by Cynthia Gillespie against Order LD13-247 dated August 13, 2013 issued by the Director of Residential Rental Property.

**BEFORE THE COMMISSION**

on Wednesday, the 28th day of August, 2013.

John Broderick, Acting Vice-Chair  
Michael Campbell, Commissioner  
Ferne MacPhail, Commissioner

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# Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

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Commission Administrator  
Land, Corporate and Appellate Services Division

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Rental Property Act, by Cynthia Gillespie against Order LD13-247 dated August 13, 2013 issued by the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On August 15, 2013 the Commission received a Notice of Appeal dated the same date from a lessee, Cynthia Gillespie (the Appellant) requesting an appeal of Order LD13-247 dated August 13, 2013 issued by the Director of Residential Rental Property (the Director).

By way of background, on July 24, 2013 a lessor, Westridge Estates Co-operative Ltd. (the Respondent), filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated the same date, to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated July 3, 2013.

The matter was heard by the Director on August 1, 2013. In Order LD13-247 it states that:

***“IT IS THEREFORE ORDERED THAT***

- 1. Possession of the residential premises located at 33 Westridge Drive, Charlottetown, PEI shall be surrendered to the Co-op, and the Sheriff is directed to put the Co-op in possession of the residential premises at 11:00 A.M., Monday, August 19, 2013.”*

The matter was heard before the Commission on August 28, 2013. The Appellant was present. The Respondent was represented by Dan Murray (Mr. Murray).

## EVIDENCE

The Appellant acknowledged that her occupancy payments are in arrears. She told the Commission that she offered a substantial payment to the Respondent’s Board of Directors (the Board), but they refused to accept the payment. She asked the Board for a meeting, but they refused. She believes that the Board wants her to leave for reasons other than payment arrears.

Mr. Murray told the Commission that all payments for occupancy charges are to be paid to Atlantic Peoples Housing (APH) and any payment arrangements are to be made at the APH office. He noted that the Respondent would like to have possession of the premises by September 3, 2013.

## DECISION

The Appeal is denied. The Commission agrees with the findings and decision of the Director in Director's Order LD13-247, subject to a necessary adjustment in the date the Sheriff is directed to put the Respondent in possession.

The Commission wishes to point out that it has no jurisdiction to require the Respondent's Board to meet with the Appellant. The Commission's jurisdiction only pertains to the issue of occupancy charge payment arrears. In the present matter there are substantial arrears in these occupancy charges and the Respondent has followed the process set out in the *Rental of Residential Rental Property Act* to terminate the Occupancy Agreement.

**NOW THEREFORE**, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Rental Property Act*

## IT IS ORDERED THAT

1. The appeal is denied.
2. Possession of the residential premises located at 33 Westbridge Drive, Charlottetown, PE shall be surrendered to the Respondent, Westridge Estates Co-operative Ltd., and the Sheriff is directed to put said Respondent in possession of the residential premises at 11:00 a.m. on Tuesday September 3, 2013.

**DATED** at Charlottetown, Prince Edward Island, this 28th day of August, 2013.

**BY THE COMMISSION:**

(sgd. John Broderick)

John Broderick, Acting Vice-Chair

(sgd. Michael Campbell)

Michael Campbell, Commissioner

(sgd. Ferne MacPhail)

Ferne MacPhail, Commissioner

## NOTICE

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.*

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written **Request for Review**, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13(1) and 13(2) of the *Act* provide as follows:

*13.(1) An appeal lies from a decision or order of the Commission to the Court of Appeal upon a question of law or jurisdiction.*

*(2) The appeal shall be made by filing a notice of appeal in the Court of Appeal within twenty days after the decision or order appealed from and the rules of court respecting appeals apply with the necessary changes.*

## 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.

IRAC141x-SFN(2009/11)