



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR13026
Order LR13-20**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act by Nanci Paquet against Order
LD13-366 dated November 29, 2013 issued
by the Director of Residential Rental
Property.

BEFORE THE COMMISSION
on Friday, the 6th day of December, 2013.

John Broderick, Acting Vice-Chair
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 Nanci Paquet against Order LD13-366 dated November 29, 2013 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On December 2, 2013 the Commission received a Notice of Appeal dated the same date signed by a lessee, Nanci Paquet (the “Appellant”) requesting an appeal of Order LD13-366 dated November 29, 2013 issued by the Director of Residential Rental Property (the Director).

By way of background, on November 22, 2013 a lessor, Jim Miller, Jr. (the Respondent), 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, 2013.

The matter was heard by the Director on November 29, 2013 and in Order LD13-366 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. Possession of the residential premises located at 338 University Avenue Charlottetown, PE shall be surrendered to the lessor, and the Sheriff is directed to put the lessor in possession of the residential premises at 11:00 A.M., Monday, December 2, 2013.”**

The Commission issued a Notice of Appeal Hearing (the Notice) dated December 2, 2013. The Notice specified the date, time and location of the appeal hearing. Commission staff personally served the Notice on the Appellant on December 2, 2013.

The matter was heard before the Commission on December 6, 2013. The Respondent was present. The Commission delayed the commencement of the hearing by fifteen minutes in case the Appellant was delayed but the Appellant never appeared.

EVIDENCE

Commission staff told the Commission that the Appellant had called the Commission on or about 8:55 a.m. to advise that she had worked out an agreement with the Respondent. Commission staff advised that the Appellant would need to appear at her appeal hearing in order to confirm any such agreement.

DECISION

On her Notice of Appeal and in a conversation with Commission staff, the Appellant has claimed that she has an agreement with the Respondent. However, a mere claim or assertion is not compelling evidence and the Appellant failed to appear before the Commission to make such a statement under oath or affirmation.

The Commission finds that by not appearing at her own appeal hearing, the Appellant has abandoned her appeal.

The Commission therefore confirms Director's Order LD13-366 in its entirety. As the date for the Sheriff to put the Respondent in possession has already passed, the Commission will direct the Sheriff to put the Respondent in possession of the residential premises at the earliest possible opportunity in order to avoid any further delay.

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

IT IS ORDERED THAT

1. **The Appellant (lessee) has abandoned her appeal.**
2. **Director's Order LD13-366 is confirmed in its entirety.**
3. **Possession of the residential premises located at 338 University Avenue Charlottetown, PE shall be immediately surrendered to the Respondent (lessor), and the Sheriff is hereby directed to put the Respondent (lessor) in possession of the residential premises at the earliest possible opportunity.**

DATED at Charlottetown, Prince Edward Island, this **6th** day of **December**, **2013**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Acting Vice-Chair

(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)