



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14002
Order LR14-03**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, made by Bruce Gallant against
Order LD14-003 dated January 8, 2014 issued
by the Director of Residential Rental
Property.

BEFORE THE COMMISSION
on Friday, the 24th day of January, 2014.

John Broderick, Acting Vice-Chair
Peter McCloskey, 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, made by Bruce Gallant against Order LD14-003 dated January 8, 2014 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On January 17, 2014 the Commission received a Notice of Appeal dated January 15, 2014 signed by a lessee, Bruce Gallant (the “Appellant”) requesting an appeal of Order LD14-003 dated January 8, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on December 27, 2013 a lessor, David Wang (the “Respondent”) filed with the Director a Form 5 – Application by Lessor for Earlier Termination dated the same date together with a Form 4 – Notice of Termination by Lessor of Rental Agreement dated December 26, 2013.

The matter was heard by the Director on January 7, 2014 and in Order LD14-003 the Director ordered:

‘IT IS THEREFORE ORDERED THAT

- 1. The lessor’s application for earlier termination is valid.**
- 2. The rental agreement between the lessor and the lessee for the residential premises is hereby terminated as of 12:00 noon, Monday, January 13, 2014. The lessee must vacate the unit on or before this time and date.”**

The matter was heard before the Commission on January 23, 2014. The Appellant was present. The Respondent was represented by Felicia Wu.

EVIDENCE

The Appellant told the Commission of his recollection of the events that had occurred. Although he admitted that he does sometimes smoke in the kitchen of the apartment, he attributes the incident to a candle left burning while he slept.

Ms. Wu explained that the Respondent is very concerned about the safety and security of the other tenants and the residential premises. She noted that cigarette smoking is prohibited in the residential premises. It is the position of the Respondent that the incident was caused by a cigarette.

DECISION

The Commission agrees with the Director that the facts support an early termination of the rental agreement. The actions of the Appellant created a significant risk to the safety of the other tenants.

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 LD14-003 is hereby confirmed in its entirety.

DATED at Charlottetown, Prince Edward Island, this **24th** day of **January**, 2014.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Acting Vice-Chair

(sgd. Peter McCloskey)

Peter McCloskey, 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)