



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14022
Order LR14-20**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Debbie Vanderwal against
Order LD14-222 of the Director of Residential
Rental Property, dated July 11, 2014.

BEFORE THE COMMISSION
on Tuesday, the 29th day of July, 2014.

John Broderick, Commissioner
Leonard Gallant, Commissioner
Ferne MacPhail, Commissioner

Order

IN THE MATTER of an appeal, under Section 25 of the Rental of Residential Property Act, by Debbie Vanderwal against Order LD14-222 of the Director of Residential Rental Property, dated July 11, 2014.

Order

BACKGROUND

On July 18, 2014, the Commission received a Notice of Appeal from a lessee, Debbie Vanderwal (the Appellant), requesting an appeal of Order LR14-222, dated July 11, 2014.

By way of background, on June 3, 2014, the Appellant filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination.

The matter was heard by the Director on July 4, 2014 and in Order LD14-222 the Director ordered:

IT IS THEREFORE ORDERED THAT

1. The lessee's application to set aside the Notice of Termination by Lessor of Rental Agreement (Form 4) is denied.
2. The Notice of Termination by Lessor of Rental Agreement (Form 4) dated May 21, 2014 to be effective on June 22, 2014 is valid.
3. The rental agreement between the lessee and the lessor for the residential premises is hereby terminated as of 12:00 midnight, July 18, 2014. The lessee shall vacate the residential premises on or before that time and date.

The appeal was heard by the Commission on July 29, 2014. The Appellant was not present at the hearing but filed a written submission via email (Exhibit E-13). James Hamill (the Respondent) was present along with his legal counsel Robert McNeill. Barbara MacDonald was present with the Respondent but did not testify.

EVIDENCE

The Appellant's position is detailed in Exhibit E-13. In essence, the Appellant disputes the evidence of the Respondent noted in Order LD14-222. The Appellant wants to remain in the residential premises for one further month.

The Respondent testified that no rent has been paid for the months of June and July. He provided copies of receipts for rent which had been paid previously (Exhibit E-15) as well as a Form 4 concerning rent owing (E-14). The Respondent testified that the Appellant has an intimidating dog, the yard of the premises is dirty, garbage had been stored in the storage shed rather than put out for garbage pickup and he has been informed by others that the inside of the premises has a bad odor.

The Commission wishes to remind all lessors of the following requirement set out in the ***Rental of Residential Property Act***:

6. Entry of Premises

Except in the case of an emergency, the lessor shall not enter the premises without the consent of the lessee unless the lessor has served written notice stating the date and time of the entry to the lessee at least twenty-four hours in advance of the entry and the time stated is between the hours of 9 a.m. and 9 p.m.

DECISION

The Commission agrees with the findings of the Rental Property Officer. The Commission upholds Director's Order LD14-222 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 LD14-222 is hereby upheld in its entirety.

DATED at Charlottetown, Prince Edward Island, this **29th** day of **July**, **2014**.

BY THE COMMISSION:

John Broderick, Commissioner

Leonard Gallant, Commissioner

Ferne MacPhail, 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)