



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14028
Order LR14-22**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Danielle Hunter against
Order LD14-262 of the Director of Residential
Rental Property dated August 20, 2014.

BEFORE THE COMMISSION

on Wednesday, the 27th day of August, 2014.

John Broderick, Commissioner
Michael Campbell, Commissioner
Peter McCloskey, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Corporate Services and Appeals

IN THE MATTER of an appeal under Section 25 of the Rental of Residential Property Act, filed by Danielle Hunter against Order LD14-262 of the Director of Residential Rental Property dated August 20, 2014.

Order

BACKGROUND

On August 22, 2014 the Commission received a Notice of Appeal from a lessee, Danielle Hunter (the “Appellant”), requesting an appeal of Order LD14-262 dated August 20, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on August 4, 2014 a lessor, Alan Ford, on behalf of himself and Shirley Ford (the “Respondents”) filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated August 4, 2014 together with a Form 4 – Notice of Termination by Lessor of Rental Agreement dated July 2, 2014.

The matter was heard by the Director on August 13, 2014 and in Order LD14-262 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. Possession of the residential premises be surrendered to the lessors and the Sheriff is directed to put the lessors in possession of the residential premises at 12:00 noon, Friday, August 22, 2014.”*

The matter was heard by the Commission on August 27, 2014. The Appellant was present and Alan Ford (“Mr. Ford”) represented the Respondents.

EVIDENCE

The Appellant testified that there were issues with the residential premises; specifically water leakage / ceiling damage to the common entryway and a lack of a second exit fire escape. She stated that there was no working fire alarm in the front of the premises. She also stated that she had fallen on hard times, was asking for more time to pay and she was not previously aware that she could not withhold rent because of deficiencies.

Mr. Ford told the Commission that he first heard about the entryway ceiling issue in early August when the downstairs tenant reported it to him. Mr. Ford sent workers in to take down the false ceiling and assess the situation. Mr. Ford told the Commission that the residential premises had been gutted and remodeled prior to the Appellant moving in to the unit in March 2014. Mr. Ford characterized the Appellant’s concerns as excuses for not paying rent.

DECISION

The Commission denies the appeal for the reasons which follow.

While the Appellant's concerns may have some validity, the ***Rental of Residential Property Act*** does not permit a tenant to withhold rent. Rather, rent must continue to be paid and a tenant may make application to the Director to have the concerns investigated.

In the present matter, the Appellant has fallen behind in paying rent. The Respondents' Form 2, dated August 4, 2014, identifies unpaid rent and unpaid electricity bills totalling \$1280.62.

Based on a review of all the evidence and the testimony heard by the Commission, the Commission agrees with both the reasoning and the result contained in Director's Order LD14-262.

Accordingly, the Commission denies the appeal.

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. Possession of the residential premises located at 108 Upper Prince Street, Apartment A, Charlottetown PE, shall be immediately surrendered to the Respondents (lessors) and the Sheriff is directed to put the Respondents in possession of the residential premises forthwith.

DATED at Charlottetown, Prince Edward Island, this **27th** day of **August**, 2014.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Michael Campbell)

Michael Campbell, Commissioner

(sgd. Peter McCloskey)

Peter McCloskey, 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)