



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR14032  
Order LR14-28**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, filed by Gloria McMaster  
against Order LD14-314 issued by the  
Director of Residential Rental Property dated  
September 24, 2014.

**BEFORE THE COMMISSION**  
on Wednesday, the 15th day of October,  
2014.

Douglas Clow, Vice-Chair  
John Broderick, Commissioner  
Peter McCloskey, Commissioner

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# Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

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Commission Administrator  
Corporate Services and Appeals

**IN THE MATTER** of an appeal under Section 25 of the Rental of Residential Property Act, filed by Gloria McMaster against Order LD14-314 issued by the Director of Residential Rental Property dated September 24, 2014.

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# Order

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## BACKGROUND

On October 3, 2014 the Commission received a Notice of Appeal from a lessee, Gloria McMaster (the “Appellant”), requesting an appeal of Order LD14-314 dated September 24, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on September 12, 2014, Craig Coles (“Mr. Coles”), on behalf of Alvin Coles (the “Respondent”) filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated the same date, together with a Form 4 – Notice of Termination by Lessor of Rental Agreement dated August 8, 2014.

The matter was heard by the Director on September 24, 2014 and in Order LD14-314 the Director ordered:

***“IT IS THEREFORE ORDERED THAT***

- 1. Possession of the residential premises shall be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises at 11:00 AM on Monday, September 29, 2014.”*

The matter was heard by the Commission on October 15, 2014. The Appellant was present and the Respondent was represented by Mr. Coles.

## EVIDENCE

The Appellant testified that she has had an ongoing issue with the apartment since April 2014. The Appellant acknowledges that she owes rent to the Respondent.

Mr. Coles testified that an appropriate professional was engaged to deal with the issue. The rent is currently \$555.00 per month.

## DECISION

The appeal is denied for the reasons that follow.

The Respondent filed a Notice of Termination by Lessor of Rental Agreement (Form 4) dated August 8, 2014 to be effective August 28, 2014. The Appellant did not invalidate the Notice of Termination when she failed to pay the total outstanding rent within ten (10) days of receiving the Notice of Termination (Form 4).

In the present appeal, the arrears of rent as of September 2014 were \$2220.00. Current arrears of rent as of October 2014 are \$2775.00 [\$2220.00 + \$555.00 for the month of October].

A lessee has an obligation to pay rent. A lessee has no unilateral right to withhold rent under the ***Rental of Residential Property Act***. This is the case even as a response to a serious issue in the residential premises.

Accordingly, the Commission denies the appeal and confirms Director's Order LD14-314 with a variation in the date the Sheriff is directed to put the Respondent in possession.

**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 situate at 99 Green Street, Apartment 5, Charlottetown, Prince Edward Island, shall be surrendered to the Respondent [lessor] and the Sheriff is directed to put the Respondent [lessor] in possession of the residential premises at 11:00 a.m. on Monday, October 20, 2014.**

**DATED** at Charlottetown, Prince Edward Island, this **15th** day of **October**, 2014.

**BY THE COMMISSION:**

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(sgd. Douglas Clow)  
Douglas Clow, Vice-Chair

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(sgd. John Broderick)  
John Broderick, Commissioner

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(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)