



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14043
Order LR14-33**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Matthew James
MacDonald and Ian Clark MacDonald against
Order LD14-374 issued by the Office of the
Director of Residential Rental Property on
November 7, 2014.

BEFORE THE COMMISSION

on Wednesday, the 26th day of November,
2014.

John Broderick, Commissioner
J. Scott MacKenzie, Q.C., Chair
Jean Tingley, 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 Matthew James MacDonald and Ian Clark MacDonald against Order LD14-374 issued by the Office of the Director of Residential Rental Property on November 7, 2014.

Order

BACKGROUND

On November 14, 2014 the Commission received a Notice of Appeal from a lessee, Matthew MacDonald on behalf of himself and Ian MacDonald (the “Appellants”), requesting an appeal of Order LD14-374 dated November 7, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on October 23, 2014 Normand Franks and Susan Franks as representatives of Sandglass Holdings Inc. (the “Respondent”) made application pursuant to Section 8.(d.3) of the **Rental of Residential Property Act** for enforcement of statutory condition 6.10 requesting an order that possession of the residential premises at mobile home lot #16 (the premises) be surrendered to the Respondent and directing the Sheriff to put the Respondent in possession. Filed with said application was a copy of a Notice of Termination by Lessor of Rental Agreement (Form 4) dated October 2, 2014 to be effective October 22, 2014 directed to the Appellants, signed by the Respondent’s representatives, concerning non-payment of October 2014 rent in the amount of \$138.00.

The matter was heard by the Director on November 5, 2014 and in Order LD14-374 the Director ordered:

“IT IS THEREFORE ORDERED THAT:

1. *Possession of the residential premises (mobile home lot #16) be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises (mobile home lot #16) at 12:00 noon, Friday, November 14, 2014.”*

The matter was heard by the Commission on November 25, 2014. The Appellants were represented by Ian MacDonald. The Respondent was represented by Normand and Susan Franks.

EVIDENCE

Mr. MacDonald explained that the Appellants tried to pay the rent but the Respondent did not accept the late rent payment.

The Respondent's representatives referred to written submissions and supporting documents filed with the Commission (Exhibits E-11 to E-19). They submitted orally that it was the choice of the Appellants not to pay the lot rent.

DECISION

The Commission denies the appeal and upholds Director's Order LD14-374.

The Commission finds that rent was not paid by the Appellants within ten (10) days of having received the October 2, 2014 Form 4. As the Appellants did not pay the outstanding rent within the ten (10) day period, the termination of the rental agreement took effect and the Respondent is entitled to obtain possession of the premises.

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 and Director's Order LD14-374 is upheld.**
2. **Possession of the residential premises (mobile home lot #16) shall be surrendered to the Respondent (lessor) and the Sheriff is directed to put the Respondent (lessor) in possession of the residential premises (mobile home lot #16) at 12:00 noon, on Monday, December 1, 2014.**

DATED at Charlottetown, Prince Edward Island, this **26th** day of **November, 2014.**

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. J. Scott MacKenzie)

J. Scott MacKenzie, Q.C., Chair

(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)