



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR14041  
Order LR14-36**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, filed by Daniel DeVellis against  
Order LD14-372 issued by the Director of  
Residential Rental Property dated November  
5, 2014.

**BEFORE THE COMMISSION**  
on Friday, the 28th day of November, 2014.

John Broderick, Commissioner  
Douglas Clow, Vice-Chair  
Jean Tingley, 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 Daniel DeVellis against Order LD14-372 issued by the Director of Residential Rental Property dated November 5, 2014.

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# Order

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## BACKGROUND

On November 7, 2014 the Commission received a Notice of Appeal from a lessee, Daniel DeVellis (the “Appellant”), requesting an appeal of Order LD14-372 dated November 5, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on October 27, 2014, a lessor, Bevan Enterprises Inc. (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 October 6, 2014.

The matter was heard by the Director on November 5, 2014 and in Order LD14-372 the Director ordered:

***“IT IS THEREFORE ORDERED THAT***

- 1. Possession of the residential premises be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises at 1:00 PM on Monday, November 10, 2014.”*

The matter was heard by the Commission on November 20, 2014. The Appellant was present. The Respondent was represented by Wayne Bevan and Betty Morrison.

## EVIDENCE

The Appellant testified that he was ill and had been away. Upon his return on November 5, 2014, he paid his November rent. He would like to be able to stay until the end of December 2014.

The Respondent’s representatives testified that the Appellant has a history of late payment of rent requiring the filing of an application with the Director. This time, a hearing before the Director was also required. In addition, the Respondent’s representatives have had a difficult time contacting the Appellant by telephone and email.

Near the end of the hearing, both parties expressed interest in reaching an agreement allowing the Appellant to remain in possession of the residential premises until December 31, 2014.

## **DECISION**

On November 28, 2014, the Respondent's representatives advised the Commission that the Appellant had paid his December 2014 rent in cash. On this basis, the Respondent has consented to permit the rental agreement to remain in effect until December 31, 2014.

Accordingly, the Commission finds that by consent of the parties, the rental agreement will continue until the end of the day on December 31, 2014 after which said agreement shall terminate and the Appellant must vacate the residential premises.

**NOW THEREFORE**, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

## **IT IS ORDERED THAT**

1. **By consent of the parties, and in consideration that the Appellant (lessee) has paid rent for the months of November and December 2014 and the Respondent (lessor) has accepted such payments, the rental agreement shall continue until it terminates at the end of the day on December 31, 2014 at which time the Appellant (lessee) must have vacated the residential premises.**
2. **In the event that possession of the residential rental premises has not been surrendered to the Respondent (lessor) upon termination of the rental agreement, the Sheriff is directed to put the Respondent (lessor) in possession of the residential premises situated at 79 Ducks Landing, Apartment 5, Stratford PE forthwith.**

**DATED** at Charlottetown, Prince Edward Island, this **28th** day of **November, 2014.**

### **BY THE COMMISSION:**

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(sgd. John Broderick)  
John Broderick, Commissioner

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

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(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)