



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR15006
Order LR15-05A**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Derek and Florence
Sampson against Order LD15-060 issued by
the Director of Residential Rental Property
dated February 19, 2015.

BEFORE THE COMMISSION
on Thursday, the 26th day of February, 2015.

Douglas Clow, Vice-Chair
Ferne MacPhail, 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 Derek and Florence Sampson against Order LD15-060 issued by the Director of Residential Rental Property dated February 19, 2015.

Order

BACKGROUND

On February 20, 2105 the Commission received a Notice of Appeal from two lessees, Derek Sampson and Florence Sampson (the "Appellants"), requesting an appeal of Order LD15-060 dated February 19, 2015 issued by the Director of Residential Rental Property (the "Director").

By way of background, on February 9, 2015 a lessor, S.A. Tweel Ltd (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 January 16, 2015.

The matter was heard by the Director on February 19, 2015 and in Order LD15-060, 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 2:00 p.m., Friday, February 20, 2015."*

The matter was heard by the Commission on February 25, 2015. Florence Sampson was present for the Appellants. The Respondent was represented by Nick Tweel and Jeff Higginbotham.

EVIDENCE

Ms. Sampson testified that she and her husband are trying to find a new place to live. She acknowledged that rent is owed. She told the Commission there were heating problems and plumbing problems at the residential premises.

Mr. Tweel testified that the Appellants moved into the residential premises in November 2014. The Respondent has not received a complete month's rent since December 2014. Mr. Tweel told the Commission that the Appellants have made many promises but rent remains unpaid. Mr. Tweel and Mr. Higginbotham denied there were any problems with the heating and plumbing systems.

DECISION

The Commission denies the appeal for the reasons that follow.

The Appellants alleges problems with the plumbing and heating systems while the Respondent denies such problems. Even if there were such problems, the Appellants are obligated to pay rent. The Appellants have not paid their rent, and the Respondent has followed the statutory process to obtain lawful possession of the residential premises.

Accordingly, the Commission denies the appeal and upholds the Director's Order 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 LD15-060 is upheld.
3. Possession of the residential premises located at 242 A University Avenue, Charlottetown PE shall be surrendered to the Respondent lessor and the Sheriff is directed to put the Respondent lessor in immediate possession of the residential premises.

DATED at Charlottetown, Prince Edward Island, this **26th** day of **February**, 2015.

BY THE COMMISSION:

(sgd. Douglas Clow)

Douglas Clow, Vice-Chair

(sgd. Ferne MacPhail)

Ferne MacPhail, 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)