



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR15007
Order LR15-06**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Ashley Clarey against
Order LD15-051 issued by the Office of the
Director of Residential Rental Property dated
February 13, 2015.

BEFORE THE COMMISSION
on Tuesday, the 25th day of March, 2015.

Doug Clow, Vice-Chair
Peter McCloskey, Commissioner
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 Ashley Clarey against Order LD15-051 issued by the Office of the Director of Residential Rental Property dated February 13, 2015.

Order

BACKGROUND

On February 24, 2015 the Commission received a Notice of Appeal from a lessee, Ashley Clarey (the “Appellant”), requesting an appeal of Order LD15-051 dated February 13, 2015 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on December 15, 2014 a lessor, Montague Housing Authority Inc. (the “Respondent”) filed with the Director an Application by Lessor for an Order to terminate the rental agreement because the Appellant is habitually and persistently late in the payment of rent.

The matter was heard by the Director on January 7, 2015 and in Order LD15-051, the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The rental agreement between the lessor and the lessee for the residential premises is hereby terminated as of 12:00 midnight, February 28, 2015.*
- 2. The lessee shall vacate the residential premises on or before 12:00 midnight, February 28, 2015.*
- 3. If the lessee fails to vacate the premises in accordance with paragraph 2 of this Order, then the lessor shall be entitled to apply without further notice to the lessee for an order directing the Sheriff to put the lessor in possession of the residential premises.”*

The matter was scheduled to be heard by the Commission on March 11, 2015. The Appellant was not present for that hearing. Following that hearing, the Appellant advised as to why she could not attend. The Commission re-scheduled the hearing for March 20, 2015. The March 20, 2015 hearing proceeded with the Appellant participating by telephone. The Respondent was represented by Kathleen Hamilton. Two of the Respondent’s board members were also present, along with a third party whose testimony was not required.

EVIDENCE

The Appellant acknowledged that she was behind in her rent and explained at length the reasons why she was unable to pay the rent.

The Respondent submitted that the Appellant owes rent for January, February and March 2015. The Respondent submitted that during the 22 months of the Appellant's tenancy, she was late 14 months, on time for 5 months and is currently in arrears for 3 months.

DECISION

The issues before the Commission are non-payment of rent and habitual lateness. The evidence before the Commission establishes a pattern of lateness and most importantly, that no rent has been paid for any month in 2015.

The Appellant's position is that she was unable to pay rent for various reasons she spoke to at the hearing.

The *Rental of Residential Property Act* requires a lessee to pay rent to the lessor. The *Rental of Residential Property Act* does not set out any factors to justify non-payment of rent. The *Rental of Residential Property Act* does not give the Director or the Commission any power to make exceptions, even in hardship cases where the hardship has been proven.

The Commission denies the appeal and affirms Director's Order LD15-051, which remains in full force and effect.

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 LD15-051 continues in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **25th** day of **March**, **2015**.

BY THE COMMISSION:

(sgd. Doug Clow)

Doug Clow, Vice-Chair

(sgd. Peter McCloskey)

Peter McCloskey, Commissioner

(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)