



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR15012
Order LR15-10**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by David Snowdon
against Order LD15-125 issued by the Office
of the Director of Residential Rental Property
on April 10, 2015.

BEFORE THE COMMISSION
on Tuesday, the 21st day of April, 2015.

John Broderick, Commissioner
Douglas Clow, Vice-Chair
Leonard Gallant, 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 David Snowdon against Order LD15-125 issued by the Office of the Director of Residential Rental Property on April 10, 2015.

Order

BACKGROUND

On April 15, 2015 the Commission received a Notice of Appeal from a lessee, David Snowdon (the “Appellant”) appealing Order LD15-125 issued by the Director of Residential Rental Property (the “Director”) dated April 10, 2015.

By way of background, on March 25, 2014 Randy Pitre (“Mr. Pitre”) filed on behalf of a lessor, Wayne Richards (the “Respondent”) a Form 4 – Notice of Termination by Lessor of Rental Agreement and a Form 5 – Application by Lessor for Earlier Termination.

The matter was heard by the Director on April 7, 2015 and Order LD15-125 states as follows:

“IT IS THEREFORE ORDERED THAT

- 1. The lessor’s application for earlier termination is dismissed.*
- 2. The Notice of Termination by Lessor of Rental Agreement (Form 4) dated March 25, 2015 is valid and the rental agreement between the parties shall terminate on April 25, 2015.*
- 3. The lessee shall vacate the rental premises by 11:59 PM on April 25, 2015.*
- 4. If the lessee fails (sic) vacate the rental premises in accordance with Paragraph 3, the lessor may make application without further notice to the lessee for an Order that possession of the residential premises be surrendered to the lessor and directing the Sheriff to put the lessor in possession of the residential premises.”*

The Commission heard the appeal on April 21, 2015. The Appellant was present. The Respondent was represented by Mr. Pitre.

EVIDENCE

The Appellant told the Commission that he wants Director’s Order LD15-125 set aside to allow the Director to investigate breaches of statutory conditions, which he has alleged in Exhibit E-12. The Appellant stated that the allegations set out in the “eviction notice” were “not true”.

Mr. Pitre reviewed in some depth concerns noted in the Form 4 and Form 5 filed on behalf of the Respondent.

DECISION

The Commission denies the appeal and upholds Director's Order LD15-125 for the reasons that follow.

In order to dispute allegations made in a Form 4 Notice of Termination by Lessor of Rental Agreement, a lessee needs to apply to the Director within 10 days to set aside the Form 4. This process is set out within section 16 of the ***Rental of Residential Property Act*** and neither the Director nor the Commission can waive this requirement. The Appellant did not apply to set aside the Form 4 and thus he is deemed to have accepted the Form 4 termination date.

Accordingly, the Commission agrees with the reasoning given by the Director and the Commission upholds Order LD15-125 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 LD15-125 is hereby upheld in its entirety.

DATED at Charlottetown, Prince Edward Island, this **21st** day of **April**, 2015.

BY THE COMMISSION:

(sgd. John Broderick)
John Broderick, Commissioner

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

(sgd. Leonard Gallant)
Leonard Gallant, 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)