



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR15008
Order LR15-11**

IN THE MATTER of an appeal filed
under Section 25 of the Rental of Residential
Property Act filed by Paulette Vienneau
against Order LD15-043 dated February 6,
2015 made by the Director of Residential
Rental Property.

BEFORE THE COMMISSION
on Thursday, the 7th day of May, 2015.

Douglas Clow, Vice-Chair
Leonard Gallant, 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 filed under Section 25 of the Rental of Residential Property Act filed by Paulette Vienneau against Order LD15-043 dated February 6, 2015 made by the Director of Residential Rental Property.

Order

BACKGROUND

On February 26, 2015 the Commission received a Notice of Appeal from a lessee, Paulette Vienneau (the “Appellant”), requesting an appeal of Order LD15-043 dated February 4, 2015 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on April 15, 2014 the Appellant filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement believing that Statutory Condition 6.2 relevant to services has been contravened by a lessor, Killam Properties Inc. (the “Respondent”).

The matter was heard by the Director on October 2, 2015 and in Order LD15-043 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. The lessee’s application is dismissed.”

The matter was heard by the Commission on March 19, 2015. The Appellant was present. The Respondent was represented by Wayne Beaton and Lei-Lanya Lavers.

EVIDENCE

The Appellant testified that when she moved into the apartment on July 1, 2010 wireless internet was part of the rental package and she used that service. In 2013, the Respondent took over the ownership and management of the apartment building, and shortly thereafter, the Appellant began experiencing problems with the wireless internet. The Appellant was frustrated and in September 2013, she obtained her own internet service. In March 2014, she received a Notice of Rental Increase. The Appellant contacted the Respondent to point out an irregularity with the increase and also told Ms. Lavers about the problems with the provided internet service.

The Appellant seeks a reduction in her rent commensurate with the expenditure she pays for obtaining her own internet service.

Mr. Beaton testified that the Respondent assumed ownership and management of the apartment building on June 1, 2013. The Respondent was not aware of the Appellant's concerns with respect to the internet until April 2014. The Respondent still provides the internet service; however, it is not listed as an included service in new leases.

Ms. Lavers testified that the internet service does work and has checked it with her mobile phone on several occasions.

Following the hearing, the Respondent filed a letter from Neuron Communications. A copy of this letter was forwarded to the Appellant and the Appellant filed a response.

DECISION

The Commission denies the appeal for the reasons that follow.

On April 7, 2015, the Respondent filed a letter from Neuron Communications, which reads as follows:

March 27, 2015

RE : Wi-Fi Assessment

To Whom It May Concern,

A Site Survey of wireless propagation showed that all areas of the complex were covered by Wi-Fi signal.

All access point equipment was present on all floors. Wi-Fi Signal across frequency space was congested (channels 1 to 11) as most residents have their own internet service with their own wireless router. The complex Wi-Fi was competing with other signals but you could get connected and reach the internet. Speeds depending on the amount of users connected average about 6 megabytes per second.

Regards,

Jeff Paquet

Neuron Communications Inc.

The Commission agrees with the findings of the Director that the onus is on the Appellant to prove her case on a balance of probabilities. The Respondent has filed evidence that establishes that a basic internet service is provided at the Appellant's apartment building. While the Appellant offers her own assertions to dispute this evidence, she has not filed objective evidence to challenge the assessment provided by Neuron Communications.

Accordingly, the appeal is denied.

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 LD15-043 is hereby confirmed.

DATED at Charlottetown, Prince Edward Island, this **7th** day of **May, 2015**.

BY THE COMMISSION:

(sgd. Douglas Clow)

Douglas Clow, Vice-Chair

(sgd. Leonard Gallant)

Leonard Gallant, 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)