



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR15010  
Order LR15-12**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Alan Thompson and Laurie  
MacKinley against Order LD15-077 dated  
March 9, 2015 issued by the Director of  
Residential Rental Property.

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

John Broderick, Commissioner  
Douglas Clow, Vice-Chair  
Michael Campbell, 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, by Alan Thompson and Laurie MacKinley against Order LD15-077 dated March 9, 2015 issued by the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On March 31, 2015 the Commission received a Notice of Appeal dated the same date from a lessor, Alan Thompson (Mr. Thompson) on behalf of himself and Laurie MacKinley (the “Appellants”) requesting an appeal of Order LD15-077 dated March 9, 2015 issued by the Director of Residential Rental Property (the Director).

By way of background on February 18, 2015 a lessee, Charlene Costello (the Respondent”) filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement.

The Director heard the matter on February 27, 2015 and in Order LD15-077 ordered that the rental agreement between the Appellants and the Respondent be terminated effective March 16, 2016 and also ordered that certain matters be addressed by the Appellants within two months of the date of the Order.

The Commission heard this matter on April 27, 2015. Both of the Appellants were present. The Respondent was also present.

## EVIDENCE

Mr. Thompson told the Commission that the Appellants had not received a notice of hearing from the Director and thus neither they, nor a representative, were present at the hearing held by the Director. The Appellants presented 28 new exhibits at the hearing before the Commission, including detailed written submissions. The pith and substance of the Appellant’s position is that extreme winter weather caused some difficulties and the Appellants took all reasonable efforts to promptly address these concerns to the best of their ability.

The Respondent explained that she experienced problems with her apartment and followed the process before the Director to address these concerns. The Respondent presented three new exhibits at the hearing before the Commission.

## DECISION

The appeal is allowed and Order LD15-077 is dismissed for the reasons that follow.

The Commission notes that means of communicating have expanded significantly in recent years. The Commission encourages the Director to make use of modern forms of communication, in addition to what is required by the ***Rental of Residential Property Act***, to ensure effective delivery of notice to the parties.

The Commission has had the benefit of substantial new evidence as well as the testimony of both parties. Based on this new evidence, the Commission dismisses order LD15-077 and finds that the rental agreement between the parties is terminated effective March 31, 2015.

There is no Form 8 NOTICE OF INTENTION TO RETAIN SECURITY DEPOSIT or Form 9 APPLICATION RE DETERMINATION OF SECURITY DEPOSIT in the evidence before the Commission, and accordingly, the issue of the disposition of the security deposit will need to be considered by the Director.

**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 allowed.**
2. **Director's Order LD15-077 is dismissed.**
3. **The rental agreement between the parties is hereby terminated effective March 31, 2015.**

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

**BY THE COMMISSION:**

(sgd. John Broderick)

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John Broderick, Commissioner

(sgd. Douglas Clow)

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Douglas Clow, Vice-Chair

(sgd. Michael Campbell)

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Michael Campbell, 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)