



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR15027
Order LR15-23**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Jason MacLean against
Order LD15-296 dated August 12, 2015
issued by the Director of Residential Rental
Property.

BEFORE THE COMMISSION
on Thursday, the 20th day of August, 2015.

Douglas Clow, Vice-Chair
John Broderick, 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, by Jason MacLean against
Order LD15-296 dated August 12, 2015
issued by the Director of Residential Rental
Property.

Order

BACKGROUND

On August 14, 2015 the Commission received a Notice of Appeal dated the same date signed by a lessee, Jason MacLean (the “Appellant”) requesting an appeal of Order LD15-296 dated August 12, 2015 issued by the Director of Residential Rental Property (the Director).

By way of background on August 7, 2015 a lessor, David Wang (on behalf of himself and the other lessor, Felicia Wu), filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking the following remedy by way of:

- (h) an order that possession of the residential premises be surrendered to the lessor and directing the sheriff to put the lessor in possession.

The matter was heard, ex parte, by the Director on August 10, 2015 and in Order LD15-296 the Director states at Page 2:

*“**BASED** on the evidence and submissions presented regarding the application, the Rental Property Officer’s determination is as follows:*

*The lessor applied on May 21, 2015 for early termination of the rental agreement between the lessors and the lessee. A hearing was held on this matter and **Order LD15-192** was issued terminating the rental agreement between the lessors and the lessee as of 12:00 midnight, June 18, 2015. The lessee has been served with a copy of this Order.*

...

*The lessee has violated the conditions of **Order LD15-192***

*Section 6.10 of the **Act** states:*

6.10 Delivery of Possession

Where notice of termination has been given in accordance with this Act, and all remedies in relation thereto have been exhausted, the lessee shall deliver up possession of the residential premises.

As a result, the Officer finds that the lessor’s application is valid.”

DECISION

The Commission has disallowed the Appellant's Notice of Appeal as the Commission does not have the jurisdiction to hear an appeal of an ex parte order directing the Sheriff to put the lessors in possession of the premises.

The Appellant had an opportunity to appeal Order LD15-192 but did not do so. Pursuant to subsection 25(3) of the *Rental of Residential Property Act*, the Appellant is thus deemed to have accepted Order LD15-192 and that decision is final. By not vacating the premises within the time period set out in Order LD15-192, the Appellant is in breach of said Order, and a follow up ex parte order to direct the Sheriff to put the Respondent lessors in possession of the premises cannot be appealed.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

IT IS ORDERED THAT

1. The August 14, 2015 Notice of Appeal filed by Jason MacLean is hereby disallowed. Therefore, Order LD15-296 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **20th** day of **August**, 2015.

BY THE COMMISSION:

(sgd. Douglas Clow)

Douglas Clow, Vice-Chair

(sgd. John Broderick)

John Broderick, 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)