



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR15029
Order LR15-26**

IN THE MATTER of an appeal filed
under Section 25 of the Rental of Residential
Property Act, by Michellene McKenna
against Orders LD15-293 and LD15-294
issued by the Director of Residential Rental
Property both dated August 7, 2015.

BEFORE THE COMMISSION
on Friday, the 4th day of September, 2015.

John Broderick, Commissioner
Ferne MacPhail, Commissioner
Peter McCloskey, 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, by Michellene McKenna against Orders LD15-293 and LD15-294 issued by the Director of Residential Rental Property both dated August 7, 2015.

Order

BACKGROUND

On August 24, 2015 the Commission received a Notice of Appeal from a lessee, Michellene McKenna (the “Appellant”), requesting an appeal of Order LD15-293 and LD15-294 both dated August 7, 2015 issued by the Director of Residential Rental Property (the “Director”).

By way of background on July 28, 2015 a lessor, Southport Motel & Cottages (the “Respondent”), filed with the Director a Form 5 – Application by Lessor For Earlier Termination together with a Form 4 – Notice of Termination by Lessor of Rental Agreement dated July 25, 2015. On July 30, 2015 the Appellant filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination.

Both matters were heard by the Director on August 4, 2015 and in Order LD15-293 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. *The lessor’s application for earlier termination is dismissed.”*

In Order LD15-294 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. *The lessee’s application to set aside the Notice of Termination by Lessor of Rental Agreement (Form 6) dated July 25, 2015 to be effective August 26, 2015 is dismissed.*
2. *The Notice of Termination by Lessor of Rental Agreement (Form 4) dated July 25, 2015 to be effective on August 26, 2015 is valid.*
3. *The rental agreement between the lessee and the lessor for the residential premises is hereby terminated as of 12:00 midnight, August 26, 2015. The lessee shall vacate the residential premises on or before 12:00 midnight, August 26, 2015.”*

The matter was heard by the Commission on September 3, 2015. The Appellant was present. The Respondent was represented by Marion Endert, Mary MacMillan, Terry MacDonald, Shawna Hayward and Heather DeBlois testified for the Respondent.

EVIDENCE

The Appellant testified at great length with respect to her understanding of various events. She submitted that she wants to leave the premises as soon as possible, but may need more time to find a new residence for herself and her cat.

The Respondent's representative and witnesses testified as to various events from their perspective. The Respondent's representative requested that the Commission require the Appellant to vacate the premises immediately.

DECISION

Having heard the testimony of both parties, the Commission is in complete agreement with the Director's findings in Orders LD15-293 and LD15-294. The Commission has determined that it is in the best interest of both parties that Director's Orders LD15-293 and LD15-294 be upheld in their entirety, and thus both Orders remain 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 dismissed.**
2. **Director's Orders LD15-293 and LD15-294 are hereby upheld in their entirety and thus remain in full force and effect.**

DATED at Charlottetown, Prince Edward Island, this **4th** day of **September**, **2015**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Ferne MacPhail)

Ferne MacPhail, Commissioner

(sgd. Peter McCloskey)

Peter McCloskey, 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)