



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR16007
Order LR16-06**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Allan Sparks against
Order LD16-044 issued by the Director of
Residential Rental Property dated February
17, 2016.

BEFORE THE COMMISSION
on Tuesday, the 1st day of March, 2016.

John Broderick, Commissioner
Douglas Clow, Vice-Chair
Ferne MacPhail, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Dawn Murphy

Appeals Coordinator
Corporate Services and Appeals

IN THE MATTER of an appeal under Section 25 of the Rental of Residential Property Act, filed by Allan Sparks against Order LD16-044 issued by the Director of Residential Rental Property dated February 17, 2016.

Order

BACKGROUND

On February 19, 2016 the Commission received a Notice of Appeal from a lessee, Allan Sparks (the “Appellant”), requesting an appeal of Order LD16-044 dated February 17, 2016 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on February 5, 2016 the Director received a Form 4 Notice of Termination by Lessor of Rental Agreement and a Form 5 Application by Lessor for Earlier Termination, both forms which were signed by the representative of a lessor, Weymouth Properties Ltd. (the “Respondent”).

The matter was heard by the Director on February 16, 2016 and in Order LD16-044 the Director ordered:

IT IS THEREFORE ORDERED THAT

1. The Notice of Termination by Lessor of Rental Agreement (Form 4) dated February 5, 2016 to be effective March 7, 2016 is valid.
2. The application for early termination is approved and the rental agreement between the parties is terminated effective Friday, February 19, 2016 at 1:00 PM.
3. The lessee shall vacate the rental premises by 1:00 PM on Friday, February 19, 2016.
4. If the lessee does not vacate the premises in accordance with Paragraph 2 of this Order, then the lessor shall be at liberty to apply for an order directing the Sheriff to put the lessor in possession of the rental premises without further notice to the lessee.

The Commission heard the appeal on February 29, 2016. The Appellant was present. The Respondent was represented by Betty Morrison and Wayne Bevan.

EVIDENCE

The Appellant told the Commission that he needs a little more time to move out of the rental premises.

The Respondent's representatives told the Commission that, for the reasons set out in the Form 4 and the Form 5, the Respondent needs to obtain possession of the rental premises.

DECISION

The Commission denies the appeal for the reasons that follow.

The Commission agrees with the findings of the Director set out in Director's Order LD16-044. The Form 4 is valid and would be effective as of March 7, 2016. However, the circumstances support a finding that the Form 5 application for early termination of the rental agreement be approved. The Commission finds that an early termination of the rental agreement effective Wednesday March 2, 2016 at 1:00 p.m. is warranted.

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 LD16-044 is hereby upheld.
3. The Appellant (lessee) shall vacate the rental premises by 1:00 p.m. on Wednesday, March 2, 2016.
4. If the Appellant (lessee) does not vacate the rental premises by 1:00 p.m. on Wednesday, March 2, 2016, then the Respondent (lessor) shall be at liberty to apply to the Director for an order directing the Sheriff to put the Respondent (lessor) in possession of the rental premises without further notice to the Appellant (lessee).

DATED at Charlottetown, Prince Edward Island, this **1st** day of **March**, 2016.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Douglas Clow)

Douglas Clow, Vice-Chair

(sgd. Ferne MacPhail)

Ferne MacPhail, 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)