



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR17006
Order LR17-02A**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Irwin Newman and Serita Newman against Order LD17-092 dated March 29, 2017 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION

on Friday, the 19th day of May, 2017.

John Broderick, Commissioner
M. Douglas Clow, Vice-Chair
Jean Tingley, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan 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 Irwin Newman and Serita Newman against Order LD17-092 dated March 29, 2017 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On April 17, 2017 the Commission received a Notice of Appeal from two lessees, Irwin and Serita Newman (the “Appellants”), requesting an appeal of Order LD17-092 dated March 29, 2017 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on October 6, 2016, the lessors, Scott and Gail Ferris (the “Respondents”) filed with the Director the following documents:

1. Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking an Order to authorize the discontinuance of a service and an appropriate adjustment to the rent;
2. Form 12 – Application by Lessor for Approval of Rent Increase Exceeding Percentage Allowed by Regulation; and
3. Form 15 – Lessor’s Statement of Income and Expenses.

The matter was heard by the Director on November 1, 2016 and in Order LD17-092 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. *The lessors’ application for the discontinuance of provision of electrical service for the residential premises is hereby approved.*
2. *The change of service for the residential premises shall be effective June 1, 2017.”*

The Commission heard the appeal on May 19, 2017. Both the Appellants and the Respondents were present.

EVIDENCE

The Appellants testified that discontinuing the provision of electrical service effectively amounts to a large increase in their rent and they did not expect such a large and sudden increase. The Appellants also pointed out some Form 15 line entries that they feel were for both sides of the duplex. They noted that no work has been done to the windows. They testified that they began renting the residential premises in October 2014.

The Respondents acknowledged that the window thermopanes have not been replaced as yet. The Respondents stated that the Appellants have been very good tenants. The Respondents testified that they are currently injecting their own funds to meet the expenses of the residential premises. By discontinuing the provision of electrical service the Respondents hope to break even financially. The Respondents also clarified the Form 15 line entries in their testimony.

DECISION

The Commission has reviewed the Form 15 Lessor's Statement of Income and Expenses along with the comments by both parties with respect to the various line entries. The Commission has re-calculated the Form 15 based on this testimony.

The Commission finds that the decision made by the Director in Director's Order LD17-092 is reasonable and fair.

The Commission varies the change of service date to August 1, 2017.

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

IT IS ORDERED THAT

1. **The Commission upholds the decision of the Director in Order LD17-092 to approve the Respondent lessors' application for the discontinuance of provision of electrical service for the residential premises.**
2. **The change of service for the residential premises shall be effective August 1, 2017.**

DATED at Charlottetown, Prince Edward Island, this **19th** day of **May, 2017**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(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)