



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR17007  
Order LR17-03**

**IN THE MATTER** of an appeal filed  
under Section 25 of the Rental of Residential  
Property Act by DIMAC Holdings Inc. against  
Order LD17-117 dated May 4, 2017 issued by  
the Office of the Director of Residential Rental  
Property.

**BEFORE THE COMMISSION**

on Monday, the 29th day of May, 2017.

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

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# Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

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Commission Administrator  
Corporate Services and Appeals

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Property Act by DIMAC Holdings Inc. against Order LD17-117 dated May 4, 2017 issued by the Office of the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On May 8, 2017 the Commission received a Notice of Appeal from a lessor, DIMAC Holdings Inc. (the “Appellant”), requesting an appeal of Order LD17-117 dated May 4, 2017 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on April 18, 2017, a lessee, Sylvia MacDonald (“Ms. MacDonald”), on behalf of herself and David Beaudoin (“Mr. Beaudoin”) (the “Respondents”) filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated April 10, 2017 signed by Diane McQuaid (“Ms. McQuaid”) on behalf of the Appellant.

The matter was heard by the Director on April 28, 2017 and in Order LD17-117 the Director ordered:

***“IT IS THEREFORE ORDERED THAT***

- 1. The lessees’ application to set aside the Notice of Termination by Lessor of Rental Agreement (Form 4) dated April 10, 2017 for effect May 10, 2017 is allowed. The rental agreement shall continue.”*

The Commission heard the appeal on May 29, 2017. Ms. McQuaid represented the Appellant and Ms. MacDonald and Mr. Beaudoin represented the Respondents.

## EVIDENCE

Ms. McQuaid filed a written submission, Irving Oil customer logs, photographs with notes and Environment Canada weather data as exhibits at the hearing. Ms. McQuaid testified that Irving Oil has refused furnace oil delivery on several occasions over the last three years as the oil delivery person was unable to safely access the oil fill pipe located on the back deck of the residential premises. Ms. McQuaid also is concerned about clutter on and near the deck, and also near the front walkway area, from both a safety and an appearance point of view.

Ms. MacDonald and Mr. Beaudoin filed photographs showing that the areas of concern have been tidied up as of the evening of May 8, 2017. The Respondents acknowledged that access to the oil tank fill pipe had been blocked on a few occasions.

## DECISION

The Commission denies the appeal as it agrees with the finding of the Director that the concerns are not sufficient at this time to justify termination of the rental agreement. In addition, the Commission notes that the pictures contained in Exhibit E-12 demonstrate that the Respondents have tidied up the deck, access to the deck and the front walkway area.

That said, the Commission cautions the Respondents that it is essential that the deck, the steps leading to the deck and the front walkway area be kept clear and free of any obstacles and safety hazards at all times. The Commission would not look fondly on a repeat application concerning this matter.

**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 LD17-117 is hereby confirmed.

**DATED** at Charlottetown, Prince Edward Island, this **29th** day of **May**, 2017.

**BY THE COMMISSION:**

(sgd. M. Douglas Clow)

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M. Douglas Clow, Vice-Chair

(sgd. John Broderick)

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John Broderick, Commissioner

(sgd. Jean Tingley)

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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)