



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR17010
Order LR17-05**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Kyla Maclsaac and Mitchell Gaudet against Order LD17-149 dated June 5, 2017 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Monday, the 12th day of June, 2017.

John Broderick, Commissioner
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 Kyla Maclsaac and Mitchell Gaudet against Order LD17-149 dated June 5, 2017 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On June 6, 2017 the Commission received a Notice of Appeal from a lessee, Kyla Maclsaac (“Ms. Maclsaac”) on behalf of herself and another lessee, Mitchell Gaudet (“Mr. Gaudet”) (collectively the “Appellants”), requesting an appeal of Order LD17-149 dated June 5, 2017 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on May 29, 2017, a lessor, David McQuaid (the “Respondent”), filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement to which was attached a Form 4 – Notice of Termination by Lessor of Rental Agreement dated April 13, 2017.

The matter was heard by the Director on June 2, 2017 and in Order LD17-149 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. *Possession of the residential premises be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises on Thursday, June 8, 2017 at 2 PM.”*

The Commission heard the appeal on June 12, 2017. Ms. Maclsaac represented the Appellants. The Respondent was also present.

EVIDENCE

Ms. Maclsaac testified that there were ongoing verbal agreements made in the past. There was a “constant back and forth” and she does not want to argue any more. She noted that she and Mr. Gaudet owe rent for May and June 2017 and have money available to pay for May’s rent for some time.

The Respondent testified that the April 2017 rent was paid late and he never received payment for May 2017. He noted that Mr. Gaudet had offered to pay \$500.00 for rent for the first half of June 2017’s rent, but Mr. Gaudet did not follow through with payment.

DECISION

The appeal is denied for the reasons that follow.

The Respondent issued a Form 4 Notice of Termination by Lessor of Rental Agreement on May 7, 2017, which required the Appellants to vacate the residential premises no later than May 27, 2017. The Appellants had the opportunity to invalidate the Form 4 by paying the outstanding rent of \$970.00 in full within ten days of the issuance of the Form 4. The Appellants did not pay the outstanding rent within 10 days and they did not apply to the Director to set aside the Form 4. By failing to take such action, the Appellants are deemed to have accepted the termination of the rental agreement on the effective date set out on the Form 4, that is to say May 27, 2017.

Accordingly, the Commission denies this appeal and confirms Director's Order LD17-149.

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 LD17-149 is hereby confirmed in its entirety.

DATED at Charlottetown, Prince Edward Island, this **12th** day of **June**, 2017.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(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)