



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18007
Order LR18-07**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Heather Taweel against Order LD18-096 dated March 21, 2018 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION

on Wednesday, the 11th day of April, 2018.

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 Heather Taweel against Order LD18-096 dated March 21, 2018 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On March 21, 2018 the Commission received a Notice of Appeal from a lessor, Heather Taweel (the “Appellant”), requesting an appeal of Order LD18-096 dated March 21, 2018 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on March 2, 2018, a lessee, Albert (Abbey) Bradshaw (the “Respondent”) filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination. Attached to the Form 6 was a Form 4 – Notice of Termination by Lessor of Rental Agreement dated March 1, 2018 signed by the Appellant.

The matter was heard by the Director on March 16, 2018 and in Order LD18-096 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 4) dated March 1, 2018 for effect March 30, 2018 is allowed and the rental agreement shall continue to be in effect.”*

The Commission heard the appeal on April 10, 2018. Both the Appellant and Respondent were present at the hearing.

EVIDENCE

The Appellant testified that she had provided the Respondent with twenty-four hours notice and inspected the residential premises. She testified that the Respondent has moved most of his possessions out of the unit and all food has been removed from the refrigerator. She stated that the Respondent wants his security deposit returned before he will surrender possession of the residential premises. She testified that he had previously called her to inform her he had moved out.

The Appellant further testified that the Respondent has been buying and selling numerous items online out of the residential premises and this causes disruption to quiet enjoyment of the tenants in the other five units when his customers arrive at the residential premises to drop off or pick up their items.

The Respondent testified that he was never mean to the Appellant but she has been mean to him. He testified that he has moved most of his possessions out and is in the midst of taking possession of another apartment. He stated that he is not giving up possession of the residential premises until he receives his security deposit from the Appellant.

DECISION

The Commission allows the appeal for the reasons that follow.

Based on the evidence before the Director, the admissible evidence presented at the hearing before the Commission and the testimony of the parties presented at the hearing before the Commission, the Commission finds that the traffic resulting from customers of the Respondent's online buying and selling activities interfered with the quiet enjoyment of the other tenants as set out in Statutory Condition 3 of the *Rental of Residential Property Act*.

Accordingly, the appeal is allowed, Director's Order LD18-096 is hereby overturned and the residential rental agreement is terminated as of Thursday April 12, 2018 at 12:00 noon.

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 allowed.
2. Director's Order LD18-096 is hereby overturned. The Notice of Termination (Form 4) dated March 1, 2018 to be effective March 30, 2018 has been determined by the Commission to be valid.
3. The residential rental agreement between Heather Taweel and Albert (Abbey) Bradshaw for the residential premises located at 36 B Upper Hillsborough Street, Charlottetown, Prince Edward Island is hereby terminated effective Thursday, April 12, 2018 at 12:00 noon.
4. If the Respondent Albert (Abbey) Bradshaw fails to vacate the premises by Thursday April 12, 2018 at 12:00 noon, the Appellant Heather Taweel shall be entitled to apply to the Director, without further notice to the Respondent Albert (Abbey) Bradshaw, for an order directing the Sheriff to put the Appellant Heather Taweel in possession of the residential premises located at 36 B Upper Hillsborough Street, Charlottetown, Prince Edward Island.

DATED at Charlottetown, Prince Edward Island, this **11th** day of **April**,
2018.

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)