



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18016
Order LR18-13**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Kevin Jay and Samantha Cheverie against Order LD18-156 dated May 11, 2018 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Tuesday, the 29th day of May, 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 Kevin Jay and Samantha Cheverie against Order LD18-156 dated May 11, 2018 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On May 18, 2018 the Commission received a Notice of Appeal from two lessees, Kevin Jay and Samantha Cheverie (collectively the “Appellants”), requesting an appeal of Order LD18-156 dated May 11, 2018 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on May 3, 2018, Ms. Cheverie 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 April 23, 2018 signed by the lessor, Justin Brown (the “Respondent”).

The matter was heard by the Director on May 4, 2018 and in Order LD18-156 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessee’s application to set aside the Notice of Termination (Form 6) is dismissed.*
- 2. The rental agreement between the lessor and the lessees for the residential premises is terminated as of 12:00 midnight on May 23, 2018.*
- 3. The lessees and all other occupants shall vacate the premises on or before 12:00 midnight on May 23, 2018.*
- 4. If the lessees fail to vacate the premises in accordance with paragraph 3 of this Order, then the lessor shall be entitled to apply without further notice to the lessees for an order directing the Sheriff to put the lessor in possession of the premises.”*

The Commission heard the appeal on May 25 2018. The Appellant Kevin Jay (“Mr. Jay”) was present at the hearing along with his witness Kyle Biso (“Mr. Biso”). Tanya Brown (“Ms. Brown”) and Chris Brown (“Mr. Brown”) were present for the Respondent.

EVIDENCE

Mr. Jay testified that he wants to move and is trying to find another place to live but he needs more time. He further testified that the electricity has been cut off and the internet modem removed. Mr. Biso testified concerning his observations with respect to the dispute.

Ms. Brown and Mr. Brown testified that they want their son to have his home back.

DECISION

The Commission varies the termination date of the rental agreement but otherwise denies the appeal.

Based on the full written record and testimony before the Commission, the Commission agrees with the decision of the Director to terminate the residential rental agreement.

The residential rental agreement is terminated as of 12:00 noon on June 12, 2018.

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. **The rental agreement between the Respondent (lessor) and the Appellants (lessees) for the residential premises is terminated as of 12:00 noon on June 12, 2018.**
3. **The Appellants (lessees) and all other occupants shall vacate the premises on or before 12:00 noon on June 12, 2018.**
4. **If the Appellants (lessees) and all other occupants fail to vacate the premises in accordance with paragraph 3 of this Order, then the Respondent lessor shall be entitled to apply without further notice to the Appellants (lessees) for an order directing the Sheriff to put the Respondent lessor in possession of the premises.**

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