



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18015
Order LR18-14**

IN THE MATTER of an appeal filed
under Section 25 of the Rental of Residential
Property Act filed by Stacey MacDonald
against Order LD18-160 dated May 14, 2018
issued by 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 filed by Stacey MacDonald against Order LD18-160 dated May 14, 2018 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On May 16, 2018 the Commission received a Notice of Appeal from a lessee, Stacey MacDonald (the “Appellant”), requesting an appeal of Order LD18-160 dated May 14, 2018 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on April 30, 2018 the lessor, Red Island Estates Inc. (the “Respondent”) filed with the Director a Form 2 - Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking an order that possession of the residential premises be surrendered to the lessor and directing the Sheriff to put the lessor in possession. Attached to the Form 2 was a Form 4 - Notice of Termination by Lessor of Rental Agreement dated April 5, 2018.

The matter was heard by the Director on May 11, 2018 and in Order LD18-160 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 at 12:00 p.m. on Tuesday, May 22, 2018.”*

The Commission heard the appeal on May 29, 2018. The Appellant was present. The Respondent was represented by Stan Davis (“Mr. Davis”).

EVIDENCE

The Appellant testified that she did pay the April 2018 rent on April 17, 2018, two days after the expiry period set out in the Form 4. She also testified that she offered to pay rent for May but Mr. Davis refused to accept payment. The Appellant requested at the hearing that she be allowed to stay in the rental premises until June 15, 2018.

Mr. Davis testified that he did accept payment of April's rent on April 19, 2018 but advised the Appellant that the Respondent would proceed with the eviction. Mr. Davis testified that he was offered May's rent but did not accept it based on advice that acceptance might start a new rental term. Mr. Davis testified that upon the Appellant moving out of the residential premises major renovations would commence and thus the premises would not be re-rented for some time.

DECISION

The Commission denies the appeal as the Appellant had not filed a notice to set aside (Form 6) and had not paid rent within the ten day period set out in the Form 4. However, given that the Appellant did pay the April rent, offered to pay the May rent and given the difficulties to find a new rental unit, the Commission varies the date of possession to June 15, 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 denied.
2. Possession of the residential premises be surrendered to the Respondent (lessor) and the Sheriff is directed to put the Respondent (lessor) in possession of the residential premises at 12:00 noon on Friday, June 15, 2018.

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)