



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18025
Order LR18-21**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Don Martin against Order LD18-204 dated June 27, 2018 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Thursday, the 9th day of August, 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 Don Martin against Order LD18-204 dated June 27, 2018 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On July 17, 2018 the Commission received a Notice of Appeal from a lessor, Don Martin (the “Appellant”), requesting an appeal of Order LD18-204 dated June 27, 2018 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on June 14, 2018, a lessee, Devon Sparman (“Mr. Sparman”) on behalf of himself and another lessee, Donathan Moss (“Mr. Moss”) (collectively the “Respondents”) 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 June 6, 2018 signed by the Appellant.

The matter was heard by the Director on June 25, 2018 and in Order LD18-204 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The Application by Lessee to Set Aside Notice of Termination (Form 6) dated June 13, 2018 is allowed and the rental agreement shall continue to be in full force and effect.”*

The Commission heard the appeal on August 7, 2018. The Appellant was present at the hearing along with Mary Martin (“Ms. Martin”). Mr. Moss was present in the hearing room while Mr. Sparman participated by way of telephone conference call.

EVIDENCE

The Appellant filed Exhibit E-12 at the hearing and provided oral evidence on the matter.

Mr. Moss and Mr. Sparman provided oral evidence on the matter.

DECISION

The appeal is denied and the Commission upholds Director’s Order LD18-204, based on the following.

Where a lessor seeks to terminate a rental agreement, the onus is on the lessor to meet the burden of proof, which on matters before the Commission is based on the civil standard of a balance of probabilities. Upon a review of the documents and testimony before the Commission, the Commission finds the Appellant has not met the burden of proof and there is insufficient evidence to disturb the findings of the Director.

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 LD18-204 is upheld.**

DATED at Charlottetown, Prince Edward Island, this **9th** day of **August**, **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)