



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18026
Order LR18-22**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Donnie MacRae against Order LD18-221 dated July 13, 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 Donnie MacRae against Order LD18-221 dated July 13, 2018 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On July 18, 2018 the Commission received a Notice of Appeal from a lessor, Donnie MacRae (the “Appellant”), requesting an appeal of Order LD18-221 dated July 13, 2018 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on June 28, 2018, a lessee, Judy Arsenault (the “Respondent”) filed with the Director a Form 6 – Application by Lessee to Set Aside Notice of Termination. Attached to the Form 6 were:

- a) a Form 4 – Notice of Termination by Lessor of Rental Agreement dated June 19, 2018 to be effective July 19, 2018 signed by the Appellant; and
- b) a Form 4 – Notice of Termination of Lessor of Rental Agreement dated June 19, 2018 to be effective August 19, 2018.

The matter was heard by the Director on July 11, 2018 and in Order LD18-221 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. *The lessee’s Application to Set Aside Notice of Termination (Form 6) 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. The Respondent was also present.

EVIDENCE

The Appellant testified at the hearing and presented Exhibit E-16. He acknowledged that the rent for the month of July 2018 has been paid.

The Respondent testified at the hearing. She confirmed that she would be moving out of the residential premises and was prepared to pay pro-rated rent for the first ten days of August in the amount of \$224.20.

DECISION

The Commission allows the appeal.

The Respondent has testified that she will be moving out of the residential premises and offered to pay pro-rated rent for the first ten days of August 2018 during the hearing. This testimony makes it quite clear to the Commission that the Respondent does not wish for the rental agreement to continue beyond August 10, 2018. The Appellant also wants the rental agreement terminated. The Commission finds that, given the evidence provided, it is in the best interest of both parties to terminate the rental agreement as of 11:59 p.m. on Friday, August 10, 2018. The Respondent will, of course, be required to pay pro-rated rent for the first ten days of August, and the Appellant shall accept said payment.

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 and Director's Order LD18-221 is hereby set aside.
2. The Respondent lessee shall pay pro-rated rent for the first ten days of August in the amount of \$224.20, said payment to be made to the Appellant lessor not later than 4:00 p.m. on Friday August 10, 2018. The Appellant lessor shall accept said payment.
3. The rental agreement between the parties shall terminate at 11:59 p.m. on Friday August 10, 2018 and the Respondent lessee shall vacate the premises on or before said date and time.

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)