



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR19019
Order LR19-14**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act by Nicole Bradley against Order
LD19-148 dated April 18, 2019 issued by the
Director of Residential Rental Property.

BEFORE THE COMMISSION
on Monday, the 13th day of May, 2019.

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 under Section 25 of the Rental of Residential Property Act by Nicole Bradley against Order LD19-148 dated April 18, 2019 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On April 24, 2019 the Commission received a Notice of Appeal dated the same date signed by a lessee, Nicole Bradley (the "Appellant") requesting an appeal of Order LD19-148 dated April 18, 2019 issued by the Director of Residential Rental Property (the Director).

By way of background, on April 4, 2019 the Appellant 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 2, 2019 signed by Roddy MacDonald ("Mr. MacDonald") of MacDonald Construction Co. Ltd. (the "Respondent").

The matter was heard by the Director on April 16, 2019 and in Order LD19-148 the Director ordered:

IT IS THEREFORE ORDERED THAT

- 1. The lessee's application to set aside the Notice of Termination (Form 4) dated April 2, 2019 for effect May 3, 2019, is dismissed.*
- 2. The lessor's Notice of Termination (Form 4) dated April 2, 2019 for effect May 3, 2019 is valid.*
- 3. The rental agreement between the parties shall terminate as of May 3, 2019 and the lessee shall vacate the premises by 11:59 p.m. on that date.*
- 4. If the lessee fails 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 lessee for an Order directing the Sheriff to put the lessor in possession of the premises.*
- 5. All other terms and conditions of the rental agreement, including the payment of rent, shall remain in effect.*

The Commission heard the appeal on May 13, 2019. The Appellant was present and testified on her own behalf. Mr. MacDonald represented the Respondent and Charlie Smith ("Mr. Smith") testified for the Respondent.

EVIDENCE

The Appellant testified that some of the damage was caused by herself but other damage was either pre-existing or caused by deficiencies with the premises. The Appellant testified that she has repaired some of the damage as shown in photographs contained in Exhibit E-10 and she will be repairing the rest of the damage.

Mr. MacDonald and Mr. Smith reviewed numerous photographs contained in Exhibit E-3 and provided the Commission with a verbal estimate of the amount of money and time required to properly repair the damage to the premises.

DECISION

The appeal is denied and Director's Order LD19-148 is confirmed.

Having reviewed Exhibits E-1 through E-10 inclusive, as well as having heard the testimony of both parties, the Commission agrees with and adopts the findings and reasoning provided by the Director in Order LD19-148.

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 LD19-148 is confirmed.

DATED at Charlottetown, Prince Edward Island, this **13th** day of **May**, 2019.

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.