



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR19027
Order LR19-18**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act by David Lyle against Order
LD19-209 dated May 24, 2019 issued by the
Director of Residential Rental Property.

BEFORE THE COMMISSION
on Friday, the 7th day of June, 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 David Lyle against Order LD19-209 dated May 24, 2019 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On May 31, 2019 the Commission received a Notice of Appeal signed by a lessee, David Lyle (the "Appellant") requesting an appeal of Order LD19-209 dated May 24, 2019 issued by the Director of Residential Rental Property (the "Director").

By way of background, on May 14, 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 May 13, 2019 signed by Rifei Cai and Lin Dong (the "lessors by sublet").

The owners of the property and ultimate lessors are Hong Li ("Ms. Li") and Jing Guang Dong (the "Respondents").

The matter was heard by the Director on May 23, 2019 and in Order LD19-209 the Director ordered:

IT IS THEREFORE ORDERED THAT

- 1. The lessee's application to set aside the Notice of Termination by Lessor of Rental Agreement (Form 6) is dismissed.*
- 2. The rental agreement between the lessors and the lessee, David Lyle, for the residential premises is terminated as of 12:00 midnight on Thursday, June 13, 2019.*
- 3. The lessee, David Lyle, shall vacate the premises on or before 12:00 midnight on June 13, 2019.*
- 4. All other conditions of the rental agreement, including the payment of rent, shall remain in force until the termination of the rental agreement.*
- 5. If the lessee, David Lyle, fails to vacate the premises in accordance with paragraph 3 of this Order, then the lessors shall be entitled to apply without further notice to the lessee for an order directing the Sheriff to put the lessors in possession of the premises."*

The Commission heard the appeal on June 6, 2019. The Appellant was present and testified on his own behalf. The lessors by sublet did not appear. Ms. Li was present representing both of the Respondents. Amy Liu ("Ms. Liu") served as translator.

EVIDENCE

The Appellant testified that the Respondents and the lessors by sublet have “made a mountain out of a molehill”. The Appellant submitted that he helped the other lessees and cleaned and repaired the premises noting that it was piled with garbage. He noted that their actions did not allow him to enjoy his home. He stated that he moved in on April 1, 2019 but the problems did not start until another lessee moved in on May 1, 2019. He stated that the other lessees and the lessors by sublet were graduating students and his plan was to take over the premises as they left.

The Appellant filed Exhibit E-17 just prior to the commencement of the hearing. Exhibit E-17 is an electronic file containing some documents already in the appeal record as well as five videos taken by the Appellant. These five videos represent new evidence which had not been before the Director. The Commission reviewed all five videos in their entirety prior to the hearing. Some of these videos were presented at the hearing along with the Appellant’s commentary for those presented videos.

Ms. Li filed Exhibit E-16 just prior to the commencement of the hearing. Exhibit E-16 contains a copy of a note from the Appellant to one of the other lessees, a couple of notes purportedly made by the Appellant left for other lessees, a brief statement from two people known to Ms. Li, and two emails from other lessees.

Ms. Liu read a statement from Ms. Li into the record. It was submitted that Ms. Li and the lessees cannot bear the Appellant’s behaviour any more and thus the Respondents request that the Appellant move out immediately.

DECISION

The appeal is denied and Director’s Order LD19-209 is confirmed.

The Commission has carefully reviewed Exhibits E-1 through E-15 as well as the new Exhibits E-16 and E-17. The Commission has fully considered the oral testimony of the Appellant and Ms. Li.

The Commission finds that the documentary evidence, electronic evidence, and testimony presented by both parties serves to provide further support for the findings of the Director in Order LD19-209. The Commission adopts the Director’s findings and agrees with the Director’s decision.

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 LD19-209 is confirmed.**

DATED at Charlottetown, Prince Edward Island, this **7th** day of **June, 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.