



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Dockets LR19049
Order LR19-26**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Greg MacDonald against Order LD19-332 dated July 31, 2019 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Friday, the 23rd day of August, 2019.

John Broderick, Commissioner
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 Greg MacDonald against Order LD19-332 dated July 31, 2019 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On August 7, 2019 the Commission received a Notice of Appeal from a lessee, Greg MacDonald (“the Appellant”), requesting an appeal of Order LD19-332 dated July 31, 2019 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on July 23, 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 July 19, 2019 signed by Joe Gallant (“Mr. Gallant”) on behalf of a lessor, A & M Holdings Inc. (the “Respondent”).

The matter was heard by the Director on July 30, 2019 and in Order LD19-332 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessee’s Application to Set Aside the Notice of Termination (Form 6) is dismissed.*
- 2. The Notice of Termination by Lessor of Rental Agreement (Form 4) dated July 19, 2019 for effect August 18, 2019 is valid.*
- 3. The rental agreement between the parties shall terminate as of August 18, 2019 and the lessee shall vacate the rental 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 Sheriff is directed to put the lessor in possession of the premises by **9:00 a.m. on Monday, August 19, 2019.***
- 5. All other conditions of the rental agreement, including the payment of rent, shall remain in force until the termination of the rental agreement.”*

The Commission heard the appeal on August 23, 2019. The Appellant was present along with his witness Stacey MacDonald (“Ms. MacDonald”). The Respondent was represented by Mr. Gallant.

EVIDENCE

The Appellant testified extensively as to the nature of his concerns about his unit which began in December 2018. He stated that, for the first several months, he cooperated with the Respondent in the treatment of his unit but refused to allow it to be sprayed in July 2019. Ms. MacDonald added her thoughts and observations.

Mr. Gallant testified that the Respondent needs vacant possession of the premises in order to spray that unit and thus fully treat the entire building.

DECISION

The appeal is denied and Director’s Order LD19-332 is confirmed.

Having reviewed the documents on file and having heard the testimony of the Appellant, Ms. MacDonald and Mr. Gallant; the Commission finds that the Respondent’s only recourse was to evict the Appellant as the Appellant had in July 2019 refused to allow the Respondent to treat his unit and as such, the treatment of the rest of the apartment building would not be fully effective.

The Commission adopts the reasoning, findings and decision made by the Director in Order LD19-332.

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 LD19-332 is confirmed.

DATED at Charlottetown, Prince Edward Island, this **23rd day of August, 2019**.

BY THE COMMISSION:

(sgd. John Broderick)
John Broderick, Commissioner

(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.