



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Dockets LR19068
Order LR19-43**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Evan Oliver against Order LD19-485 dated November 6, 2019 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Friday, the 22nd day of November, 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 filed under Section 25 of the Rental of Residential Property Act by Evan Oliver against Order LD19-485 dated November 6, 2019 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On November 12, 2019 the Commission received a Notice of Appeal from a lessee, Evan Oliver (the “Appellant”), requesting an appeal of Order LD19-485 dated November 6, 2019 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on October 30, 2019 Carl Reynolds (“Mr. Reynolds”) on behalf of a lessor, Careli Company Ltd. (the “Respondent”) filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated October 30, 2019 requesting an order that possession of the residential premises be surrendered to the lessor and directing the Sheriff to put the lessor in possession. Attached to the Form 2 was a Form 4 – Notice of Termination by Lessor of Rental Agreement dated October 7, 2019 (“October 7, 2019 Form 4”).

The matter was heard by the Director on November 6, 2019 and in Order LD19-485 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. Possession of the residential premises be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises by 12:00 noon. on Wednesday, November 13, 2019.”*

The Commission heard the appeal on November 21, 2019. The Appellant was present. Mr. Reynolds represented the Respondent.

EVIDENCE

The Appellant testified that he has found a new place to stay but it will not be available until December 1, 2019. He testified that he tried to pay October’s rent on October 31, 2019 but the Respondent refused to accept that payment.

The Respondent testified that he needs the Appellant to move out so that the apartment can be readied for a new tenant. The Respondent would like to be able to rent the apartment out to a new tenant beginning December 1, 2019.

DECISION

The appeal is denied and Director's Order LD19-485 is confirmed, subject to a variation in the date of possession.

The Commission finds that rent is owing and the arrears were not paid within ten days of service of the October 7, 2019 Form 4. In addition, the Appellant did not apply to set aside the October 7, 2019 Form 4. Accordingly, the Appellant is deemed to have accepted the termination of the rental agreement in accordance with section 16 of the **Act**.

In order to allow the Appellant and his family time to clean and move out of the apartment in an orderly manner, the Commission varies the date of possession to Thursday, November 28, 2019 at 12:00 noon. This date also allows the Respondent some time to ready the apartment for a new tenant commencing December 1, 2019,

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 LD19-485 is confirmed, subject to a variance in the date of possession.
3. Possession of the residential premises shall be surrendered to the Respondent lessor and the Sheriff is directed to put the Respondent lessor in possession of the residential premises by 12:00 noon. on Thursday, November 28, 2019.

DATED at Charlottetown, Prince Edward Island, this **22nd day of November, 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.