



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR19073  
Order LR20-01**

**IN THE MATTER** of an appeal filed  
under Section 25 of the Rental of Residential  
Property Act by Courtney Picard against  
Order LD19-511 dated December 3, 2019  
issued by the Office of the Director of  
Residential Rental Property.

**BEFORE THE COMMISSION**  
on Friday, the 10th day of January, 2020.

M. Douglas Clow, Vice-Chair  
Erin T. Mitchell, Commissioner  
Jean Tingley, Commissioner

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# Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

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Commission Administrator  
Corporate Services and Appeals

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Property Act by Courtney Picard against Order LD19-511 dated December 3, 2019 issued by the Office of the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On December 16, 2019 the Commission received a Notice of Appeal from a lessee, Courtney Picard (the “Appellant”), requesting an appeal of Order LD19-511 dated December 3, 2019 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on November 1, 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 October 30, 2019 signed by the lessor, Weiwei (Alice) Yu.

The matter was heard by the Director on December 2, 2019 and in Order LD19-511 the Director ordered:

***“IT IS THEREFORE ORDERED THAT***

- 1. The lessee’s application set aside the Notice of Termination (Form 6) is dismissed.*
- 2. The Notice of Termination by Lessor of Rental Agreement (Form 4) dated October 30, 2019 for effect January 3, 2020 is valid.*
- 3. The rental agreement between the parties shall terminate as of January 3, 2020 and the lessee shall vacate the premises by 12:00 noon 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 **4:00 p.m. on Friday, January 3, 2020.***
- 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 January 8, 2020. The Appellant participated by telephone. The Respondent was represented by her legal counsel, Geoff Gibson (“Mr. Gibson”).

## EVIDENCE

The Appellant testified that she has been seeking another rental unit without success. She requested that the termination date be extended from January 3, 2020 to February 3, 2020 as that would provide her with two months notice after the December 3, 2019 date of Director's Order LD19-511.

Mr. Gibson stated that the Respondent has fully complied with the requirements of the **Rental of Residential Property Act** ("the **Act**") and accordingly Director's Order LD19-511 should be upheld by the Commission.

## DECISION

The Commission denies the appeal and confirms Director's Order LD19-511.

Subsection 15.(1.1) of the **Act** reads:

*Notice of termination where purchaser seeks vacant possession*

(1.1) *Where*

(a) *the lessor is the owner of residential premises comprising not more than two rental units;*

(b) *the lessor enters into an agreement of sale of the residential premises to a purchaser; and*

(c) *the purchaser has sworn an affidavit that he wishes to have possession of the premises for occupation by himself, his spouse, children or parents or the parents of his spouse,*

*the lessor may serve the lessee with a notice of termination to be effective not less than two months after it is served and the notice shall be accompanied by a copy of the affidavit referred to in clause (c).*

Emphasis added.

According to the November 1, 2019 Form 6 Application by Lessee to Set Aside Notice of Termination, the Appellant received the Form 4 Notice of Termination by Lessor of Rental Agreement on October 30, 2019. The termination date of January 3, 2020 is in full compliance with the **Act** as this date is more than two months after the Form 4's date of service.

The Commission finds that all the requirements set out in subsection 15.(1.1) of the Act have been met and accordingly, the Commission confirms Director's Order LD19-511.

**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 LD19-511 is confirmed.

**DATED** at Charlottetown, Prince Edward Island, this **10th day of January, 2020**.

**BY THE COMMISSION:**

(sgd. M. Douglas Clow)

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M. Douglas Clow, Vice-Chair

(sgd. Erin T. Mitchell)

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Erin T. Mitchell, Commissioner

(sgd. Jean Tingley)

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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.*