



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR20001  
Order LR20-04**

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Property Act (the "Act") by Jason Shakespeare against Order LD20-001 dated January 2, 2020 issued by the Office of the Director of Residential Rental Property.

**BEFORE THE COMMISSION**  
on Thursday, the 6th day of February, 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 (the "Act") by Jason Shakespeare against Order LD20-001 dated January 2, 2020 issued by the Office of the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On January 15, 2020 the Commission received a Notice of Appeal from a lessor, Jason Shakespeare (the "Appellant"), requesting an appeal of Order LD20-001 dated January 2, 2020 issued by the Director of Residential Rental Property (the "Director").

By way of background, on October 8, 2019 the Appellant, filed with the Director a Form 12 – Application by Lessor for Approval of Rent Increase Exceeding Percentage Allowed by Regulation together with:

- (a) a Form 10 – Notice of Increase in Rent of Residential Premises addressed to two lessees, Kim and Stuart (sic) Dobbin dated July 1, 2019; and
- (b) a Form 10 – Notice of Increase in Rent of Rental Premises addressed to Kim Dobbin dated October 1, 2019

On November 27, 2019 the Appellant filed with the Director a Form 15 – Lessor's Statement of Income and Expenses dated November 26, 2019.

The matter was heard by the Director on December 4, 2019 and in Order LD20-001 the Director ordered:

***"IT IS THEREFORE ORDERED THAT***

1. *The maximum allowable rent for the residential premises located at 1 Penzie Lynn Drive, Cornwall, PE shall increase effective July 1, 2020 as follows:*
  - *From \$801.85 to \$1,000 per month."*

The Commission heard the appeal on February 5, 2020. The Appellant was present. Kim and Stewart Dobbin (the "Respondents") were not present.

## EVIDENCE

The Appellant gave evidence that the previous owner of the residential premises had increased the rent by the allowable rental increase, effective January 1, 2019, setting the rate at \$801.85 per month.

The Appellant purchased the residential premises in February 2019 and he gave notice to the existing tenants. The tenants moved out on May 1, 2019. The Appellant renovated the residential premises and the Respondents moved in on July 1, 2019.

On October 1, 2019 the Appellant served the Respondents with a Form 10 Notice of Increase in Rent of Residential Premises, seeking an increase of \$198.15 per month for a total rent of \$1000.00 per month, effective January 1, 2020.

The Appellant testified that, in Order LD20-001, the Director approved the increase to \$1000.00 per month, effective July 1, 2020.

The Appellant stated that he was satisfied with the quantum of the rental increase approved by the Director. However, the Appellant questioned the timing of the commencement of the rental increase, given the wording of section 21 of the **Act**.

## DECISION

The appeal is allowed and Director's Order LD20-001 is varied.

Section 21 of the **Act** reads:

*21. Frequency of rent increase*

*The rent payable for residential premises shall not be increased until twelve months have elapsed since the date of any previous increase or, in the case of residential premises not previously rented, the date on which rent was first charged. 1988,c.58,s.21.*

Emphasis added.

The evidence before the Commission is that the residential premises were previously rented and were subject to a previous rental increase effective January 1, 2019.

Based on a plain reading of Section 21, the effective date for the approved new rental increase would be after twelve months have elapsed, that is to say, January 1, 2020.

Accordingly, the Commission allows the appeal and varies Director's Order LD20-001 to read:

1. *The maximum allowable rent for the residential premises located at 1 Penzie Lynn Drive, Cornwall, PE shall increase effective January 1, 2020 as follows:*

- *From \$801.85 to \$1,000 per month.*

Emphasis added to indicate variance.

**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 allowed.
2. Director's Order LD20-001 is varied to read:
  1. *The maximum allowable rent for the residential premises located at 1 Penzie Lynn Drive, Cornwall, PE shall increase effective January 1, 2020 as follows:*
    - *From \$801.85 to \$1,000 per month.*

**DATED** at Charlottetown, Prince Edward Island, this **6th day of February, 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.*