



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR20030
Order LR20-25**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act filed by Melissa MacDougall
against Order LD20-226 dated August 28,
2020 issued by the Director of Residential
Rental Property.

BEFORE THE COMMISSION
on Friday, the 18th day of September, 2020.

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 filed by Melissa MacDougall against Order LD20-226 dated August 28, 2020 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On September 2, 2020 the Commission received a Notice of Appeal from a lessee, Melissa MacDougall (the “Appellant”), requesting an appeal of Order LD20-226 dated August 28, 2020 issued by the Director of Residential Rental Property (the “Director”).

By way of background on August 14, 2020 a lessor, Alberton Housing Authority (the “Respondent”), filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement (the “Form 2”) seeking 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 July 21, 2020.

The matter was heard by the Director and in Order LD20-226 the Director ordered:

“IT IS THEREFORE ORDERED THAT

1. *Possession of the residential premises be surrendered to the Landlord and the Sheriff is directed to put the Landlord in possession of the premises at 1:00 p.m. on Wednesday, September 2, 2020.”*

The Commission heard the appeal on September 18, 2020 by way of telephone conference in order to meet current social distancing requirements due to the COVID-19 pandemic. The Appellant participated by telephone. The Respondent was represented by Maurice Gallant (“Mr. Gallant”) and Andrea Gallant (“Ms. Gallant”) who also participated by telephone.

EVIDENCE

The Appellant testified with respect to the circumstances with respect to the rent and inspection access issues. She stated that in the spring of 2020 she had offered to pay her rent several months in advance but the Respondent would not accept advance payment of rent. She testified that she attempted to pay her rent after receiving the Form 4 but could not as the chip had malfunctioned in her bank card. Her testimony forms part of the audio record.

Mr. Gallant and Ms. Gallant testified as to their efforts to collect rent and obtain access for inspections. They noted that the sum of \$300.00, representing three months rent, is currently outstanding. Their testimony also forms part of the audio record.

DECISION

The appeal is denied and Director's Order LD20-226 is confirmed.

The Commission finds that the Appellant had not filed a Form 6 Application by Lessee to Set Aside Notice of Termination. The Commission also finds that the Appellant did not pay the arrears of rent within 10 days of receiving the Form 4. The Commission finds that the Appellant is deemed, under subsection 16(3) of the Rental of Residential Property Act, to have accepted the July 21, 2020 Form 4 filed by the Respondent.

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 LD20-226 is confirmed.**

DATED at Charlottetown, Prince Edward Island, this **18th** day of **September**, **2020**.

BY THE COMMISSION:

(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.