



**Docket: LR22006**  
**Order: LR22-06**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act (the "Act")*, filed by Joyce Keenan, against Orders LD22-005 and LD22-006 issued by the Director of Residential Rental Property and dated January 10, 2022.

**BEFORE THE COMMISSION ON** Thursday, February 17, 2022.

Panel Chair - M. Douglas Clow, Vice-Chair  
Terry McKenna, Commissioner

Hearing Date: Tuesday, February 15, 2022

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# ORDER

Compared and Certified a True  
Copy

(Sgd.) Susan Jefferson  
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Commission Administrator  
Corporate Services and Appeals

This appeal asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in setting rent at \$600 per month and finding an eviction notice was valid.

## **BACKGROUND**

David Vail (“Mr. Vail”) rents premises located at 3095 Route 19, Rocky Point, PEI (the “Premises”). Rent for the Premises is \$650 per month and is due and payable on the first day of the month.

On November 19, 2021, Mr. Vail served a Notice of Termination by Lessor of Rental Agreement (“Form 4”) on Ms. Keenan citing failure to pay rent in the amount of \$3,400. The effective date of the Form 4 was December 9, 2021.

On November 25, 2021 Ms. Keenan filed with the Director an Application to Set Aside the Notice of Termination (“Form 6”).

On November 26, 2021, Ms. Keenan filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (“Form 2”) seeking an order than an amount found to be owed be paid.

Both applications were heard by the Director on January 5, 2022. In Order LD22-005 the Director dismissed the Form 6 application and ordered that the rental agreement between the parties be terminated effective 11:59 p.m., January 31, 2022. In Order LD22-006 the Director found that the Form 2 was valid, and ordered that the rent for the Premises is \$600 per month until increased in accordance with the *Act* and that Mr. Vail apply a credit to Ms. Keenan’s outstanding balance.

Ms. Keenan appealed both Orders.

The Commission heard the appeal on February 15, 2022. Ms. Keenan and Mr. Vail participated by way of telephone conference call.

## **Disposition**

The appeal is denied.

## **The Issue**

Did the Director correctly determine that the Form 4 and Form 2 were valid?

## **Analysis**

There is no evidence before the Commission to warrant disturbing the Director’s finding that rent is to be established at \$600.00 per month. Accordingly, Director’s Order LD22-006 is confirmed in its entirety.

The evidence before the Commission establishes that there is a substantial rental arrears owing as of the date of the Form 4 and there is no evidence that any rent has been paid

for the months of December 2021, January 2022 or February 2022. Accordingly, the rental agreement is terminated. However, in order to permit an orderly vacating of the premises, the Commission varies the termination date of the rental agreement to 11:59 p.m. on Monday February 28, 2022. In all other respects, Director's Order LD22-005 is confirmed.

**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 LD22-006 is confirmed in its entirety.**
3. **Director's Order LD22-005 is varied to provide the following:**
  - A. The rental agreement between the parties for the Premises shall terminate effective **11:59 p.m. on Monday, February 28, 2022**. The Tenant shall vacate the Premises by this date and time.
  - B. A **certified copy** of this Order may be filed in the Supreme Court and enforced by Sheriff Services as permitted by the *Act*.

**DATED** at Charlottetown, Prince Edward Island, the 17th day of February, 2022.

**BY THE COMMISSION:**

(sgd. M. Douglas Clow)

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Panel Chair - M. Douglas Clow, Vice-Chair

(sgd. Terry McKenna)

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Terry McKenna, Commissioner

**NOTICE**

Subsections 26(2), 26(3), 26(4) and 26(5) of the *Rental of Residential Property Act* provides 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.