



**Docket: LR23026**  
**Order: LR23-21**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Julie Durden, against Order LD23-145 issued by the Director of Residential Rental Property, dated April 19, 2023.

**BEFORE THE COMMISSION ON** Friday, June 9, 2023.

Panel Chair – J. Scott MacKenzie, K.C., Chair  
M. Douglas Clow, Vice-Chair  
Murray MacPherson, Commissioner

Hearing Date: Tuesday, June 6, 2023

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# ORDER

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

This appeal asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in finding that an eviction notice was valid.

## BACKGROUND

Julie Durden (“Ms. Durden”) rents half a duplex located at 15 Marion Drive, Stratford, PE (the “Premises”), from Craig Conohan (the “Landlord”).

On March 10, 2023, Ms. Durden filed with the Director of set aside application (the “Application”). Attached to the Application was a Notice of Termination by Lessor of Rental Agreement for pursuant to subsection 15(1)(a) of the *Act* (the “Form 4”). The effective date of the Form 4 was April 30, 2023.

In Order LD23-145 dated April 19, 2023, the Director found that the Application was invalid and ordered that the rental agreement be terminated effective April 30, 2023 at 5:00 p.m.

Ms. Durden appealed the Order.

The Commission heard the appeal by way of telephone conference call on June 6, 2023. Ms. Durden participated. The Landlord and Sally Conohan (“Ms. Conohan”) also participated.

## Disposition

The appeal is dismissed and Director’s Order LD23-145 is confirmed.

## Analysis

Ms. Durden reviewed various events from the past landlord-tenant relationship. She submitted that, based on these past events, she was of the opinion that the Landlord is not acting in good faith with respect to evicting her from the Premises. She suggested that the Landlord could have chosen another rental unit for his daughter. Ms. Durden informed the Commission that she moved out at the end of April 2023, the Premises are currently empty and she understands that the booking of the U-Haul truck was cancelled. Ms. Durden thus questions whether the Landlord’s daughter will actually move into the Premises.

The Landlord and Ms. Conohan explained that they have been cleaning the Premises and are in the process of renovations such as new kitchen countertops, new flooring and painting. They note that the renovations have been delayed due to a shortage of available tradespeople. Due to this delay, the booking of the U-Haul truck was cancelled. They stated that their daughter is slowly moving her possessions into the Premises.

Subsection 15(1) of the *Act* reads:

*15. Personal use, renovations, etc.*

*(1) Where the lessor in good faith seeks to*

*(a) have possession of the premises for occupation by himself, his spouse, children or parents, or the parents of his spouse;*

(b) convert the premises to a use other than residential use;

(c) renovate the premises where the nature of the renovations is advised to the lessee and are such that the renovations cannot be carried out while the lessee occupies the premises;

(d) demolish the premises,

the lessor may serve the lessee with a notice of termination to be effective not less than two months after it is served. [Emphasis added]

The Commission has heard and read Ms. Durden's submissions and her Notice of Appeal. The *Act* does not restrict a lessor's choice of unit for the purposes of subsection 15(1). The evidence before the Commission does not support a finding that the Landlord "did not act in good faith with this eviction notice". The Commission finds that the Landlord in good faith sought to have possession of the Premises for occupation by his daughter.

**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 dismissed.
2. Director's Order LD23-145 is confirmed.

**DATED** at Charlottetown, Prince Edward Island, this 9th day of June, 2023.

**BY THE COMMISSION:**

(sgd. J. Scott MacKenzie, K.C.)

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Panel Chair – J. Scott MacKenzie, K.C.,  
Chair

(sgd. M. Douglas Clow)

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M. Douglas Clow, Vice-Chair

(sgd. Murray MacPherson)

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Murray MacPherson, 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.