



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: July 4, 2025
Dockets: LR25020
Type: Rental Appeal

INDEXED AS: Sean Michael Chapman v. Allan Palmer dba NCD Property Management
2025 PEIRAC 30 (CanLII)
Order No: LR25-27

BETWEEN:

Sean Michael Chapman (the "Tenant")

Appellant

AND:

Allan Palmer dba NCD Property Management (the "Landlord")

Respondent

ORDER

Panel Members:

Gordon MacFarlane, Commissioner
Pamela J. Williams, K.C., Chair

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This appeal was heard by the Commission on May 12, 2025 and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the Tenancy Agreement is terminated effective March 31, 2025.

B. BACKGROUND

2. This appeal concerns a rental unit located at 39 Weir Drive, Albany, PEI (the “Rental Unit”). The Rental Unit is a three-bedroom, one-and-a-half-bathroom single family dwelling.
3. The Landlord, the Tenant and another tenant (“T2”) entered into a written, fixed-term tenancy agreement from December 1, 2024 to November 30, 2025 (the “Tenancy Agreement”). A security deposit of \$1,700.00 was paid in November 2024 through two e-Transfers.
4. On January 28, 2025 T2 obtained an emergency protection order (the “EPO”) against the Tenant. The EPO required the Tenant to move out of the Unit and not attend the Unit.
5. In early February 2025 the Landlord issued a first *Form 4(A) Eviction Notice* against the Tenant and T2 because the Tenant had marijuana plants in the Unit.
6. On February 3, 2025 the Tenant filed a first *Form 2(A) Tenant Application to Determine Dispute* with the Residential Tenancy Office (the “Rental Office”) disputing the first eviction notice and making additional claims.
7. On February 4, 2025 T2 moved out of the Unit.
8. The Landlord withdrew the first eviction notice because he had not signed it. Around February 18, 2025 the Landlord served the Tenant with second, signed *Form 4(A) Eviction Notice* effective March 31, 2025 (the “Notice”) because of marijuana plants in the Unit. The particulars of termination state as follows:

“Marijuana plants growing in bedroom. Found during inspection with [T2].”

9. On February 20, 2025 the Tenant filed a second *Form 2(A) Tenant Application to Determine Dispute* (the “Application”) with the Rental Office disputing the Notice and making additional claims.
10. On March 20, 2025 the Tenant, the Tenant’s witness and the Landlord joined the Rental Office teleconference hearing. The parties confirmed receipt of the Evidence Package and the Supplementary Evidence Package. The parties confirmed that all documents submitted to the Rental Office were included, except for the first page of the EPO and a 49 second video provided by the Tenant.
11. After the Rental Office hearing the first page of the EPO, the 49-second video and other documents were added to the record and the parties were given the opportunity to comment on the additional evidence.

12. On March 31, 2025, the Residential Tenancy Office issued Order LD25-125, which ordered:
- A. The Tenancy Agreement is terminated effective March 31, 2025. The Tenant cannot move back into the unit under the Tenancy Agreement.
 - B. If the Landlord does not enter a new tenancy agreement with the Tenant, then the Landlord must address the Tenant's personal property in accordance with section 43 of the *Act*.
13. The Tenant appealed Order LD25-125 on April 22, 2025.
14. The Commission heard the appeal on May 12, 2025, by way of telephone conference. The Tenant participated. Allan Palmer represented the Landlord.
15. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the "*Act*").

C. DISPOSITION

16. The appeal is dismissed. Order LD25-125 is confirmed.

D. ISSUES

17. Should the tenancy agreement be terminated pursuant to section 58 of the *Act*?

E. SUMMARY OF EVIDENCE

18. The Tenant testified that he believes that the actual owner of the Rental Unit wants him to stay. The Tenant is concerned about his belongings which are apparently still inside the Rental Unit. The Tenant testified that the marijuana plants are solely for his own use and it was not a "grow op".
19. The Tenant also stated that he wanted the security deposit returned to him if he is not permitted to return to the Rental Unit.
20. The Landlord testified that he has been authorized by the owner of the Rental Unit to represent the owner on this appeal. The Landlord further stated that the owner has the Tenant's phone number so they are free to directly discuss the matter. The Landlord stated that arrangements may be made to escort the Tenant to the Rental Unit for the purpose of removing his belongings.

F. ANALYSIS

21. The appeal is dismissed and Order LD25-125 is confirmed, as the Tenancy Agreement is terminated by operation of section 58 of the *Act*. The Commission's reasoning follows.

22. Section 58 of the *Act* reads:

58. Termination by one of a group of tenants

Where a fixed-term tenancy is terminated under section 56 or 57 by one of two or more tenants who are subject to the same tenancy agreement, the remaining tenant or tenants shall also vacate the rental unit, unless the remaining tenant or tenants enter into a new tenancy agreement with the landlord. 2022,c.88,s.58.

23. The evidence before the Commission is that T2 had terminated the Tenancy Agreement pursuant to section 56 and the Landlord accepted this termination as the Landlord also sought to terminate the Tenancy Agreement. By operation of section 58, the Tenant was required to vacate the Rental Unit unless the Tenant enters into a new tenancy agreement with the Landlord.
24. The Tenant is not currently living in the Rental Unit. However, the evidence was that at the time of the hearing some of his possessions were still in the Rental Unit.
25. Although not included on his Notice of Appeal, the Tenant stated at the Commission hearing that he wanted the security deposit returned to him. The evidence before the Commission is that the Tenant did not pay the security deposit; in fact, T2 paid the security deposit (see Exhibit R-2). The Commission agrees with the finding in Order LD25-125 that an order regarding the security deposit cannot be issued at this time because T2 is not a party to this appeal.
26. The Commission notes that while the Tenancy Agreement itself is terminated, the parties are free to enter into a new tenancy agreement if they both agree to. If a new tenancy agreement is not agreed to, the Landlord will need to follow section 43 of the *Act* with respect to the Tenant's personal property remaining in the Rental Unit.

G. CONCLUSION

27. The appeal is dismissed as section 58 of the *Act* applies. Order LD25-125 is confirmed.

IT IS ORDERED THAT

- 1. The fixed term tenancy agreement from December 1, 2024 to November 30, 2025 is terminated effective March 31, 2025. The Tenant cannot move back into the Rental Unit under that tenancy agreement.**
- 2. Unless the Landlord and the Tenant enter into a new tenancy agreement, the Landlord must address the matter of the tenant's remaining personal property in the Rental Unit pursuant to section 43 of the *Act*.**
- 3. In all respects, the Commission confirms Order LD25-125.**

DATED at Charlottetown, Prince Edward Island, 4th day of July, 2025.

BY THE COMMISSION:

[sgd. Gordon MacFarlane]

Gordon MacFarlane, Commissioner

[sgd. Pamela J. Williams, K.C.]

Pamela J. Williams, K.C., Chair

NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.