



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: November 6, 2025

Dockets: LR25042

Type: Rental Appeal

INDEXED AS: Shelley Lee Garnhum v. Canadian Mental Health Association, PEI Division

2025 PEIRAC 59 (CanLII)

Order No: LR25-53

BETWEEN:

Shelley Lee Garnhum (the "Tenant")

Appellant

AND:

Canadian Mental Health Association, PEI Division (the "Landlord")

Respondent

ORDER

Panel Members:

Gordon MacFarlane, Commissioner
Kerri Carpenter, Vice-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 August 28, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the tenancy between the parties terminate effective 5:00 pm, on August 31, 2025.

B. BACKGROUND

2. This appeal concerns a rental unit located at 406 – 203 Fitzroy Street, Charlottetown, PEI (the “Rental Unit”). The Rental Unit is a one-bedroom, one-bathroom apartment located in a 28-unit building (the “Residential Property”) that was built around December of 2022. The Residential Property has four above ground levels and a finished basement. The Rental Unit is located on the fourth, above ground level.
3. In August of 2023 the Tenant originally moved into another rental unit on the fourth level the Residential Property. The Tenant later moved into the Rental Unit.
4. On February 2, 2024 the parties entered into a written, month-to-month tenancy agreement (the “Tenancy Agreement”). A security deposit of \$400.00 was paid in three installments. Rent in the amount of \$809.00 is due on the first day of the month.
5. On June 14, 2025 a fire occurred on the Rental Unit’s balcony.
6. On June 25, 2025 the Landlord served the Tenant with a *Form 4(A) Eviction Notice* with a vacate date of July 31, 2025 for behaviour and damage to the Residential Property (the “Notice”). The particulars of termination state:

“No smoking permitted as per lease and numerous warnings. Smoking on the deck of apartment which has caused a fire resulting in damage to property and endangering other tenants.”
7. On July 3, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine Dispute* (the “Application”) with the Rental Office disputing the Notice.
8. On July 29, 2025 the Tenant and the Landlord’s representative (the “Representative”) participated in a teleconference hearing before the Rental Office. The parties confirmed receipt of the Evidence Package and the parties confirmed that all evidence submitted to the Rental Office was included.
9. On July 31, 2025, the Rental Office issued Order LD25-279 which ordered that the tenancy between the parties will terminate effective 5:00 pm, on August 31, 2025.
10. The Tenant appealed Order LD25-279 on August 5, 2025.
11. The Commission heard the appeal on August 28, 2025, by way of telephone conference. The Tenant attended the telephone conference on her own behalf and Meredith McCarville (McCarville) represented the Landlord, Canadian Mental Health Association – PEI Division.

12. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the “Act”).

C. DISPOSITION

13. The appeal is denied and Order LD25-279 is upheld, subject to a variation in the tenancy agreement termination date.

D. ISSUES

14. Did the behaviour of the Tenant justify a termination of the tenancy agreement?

E. SUMMARY OF EVIDENCE

15. The Tenant acknowledged that a fire occurred on the outside balcony of the Rental Unit while she was away. She stated that she had last smoked four days prior to the incident. She stated that she made a mistake and it created a balcony fire. She did not intend to cause a fire and never thought it would happen. She stated that due to health reasons she was unable to take her garbage bags down to the ground level and so she put them on the balcony for the winter and spring. Her understanding after speaking with the fire inspector was that the cigarette butts could smolder for days or even weeks.

16. The Tenant testified that she likes her current location and it would be her first choice to stay in the Rental Unit but she would be open to relocating to Summerside as she has family there. She is currently receiving home care as she has a long-term illness. The unit has been outfitted with some accessibility measures. The balcony and the Rental Unit are now cleaned up with the help of support such as Merry Maids and homecare workers.

17. McCarville stated that the Landlord does have supports available, does have outreach housing in Summerside and can provide help with moving. McCarville described the fire event which occurred on June 14, 2025. There was an active fire on the balcony involving cigarette butts and cardboard boxes. The sprinkler activated and fire fighters arrived to add water to dose the fire. It is probable that a discarded cigarette was the source of the fire. The Landlord has a no smoking policy with signs, memos and reminders at tenant meetings. McCarville emphasised that no tenants or guests were given permission to smoke. McCarville testified that the Landlord had to evict another tenant for fire hazard behaviour unrelated to the June 14, 2025 incident. McCarville stated that the Landlord would accept a termination date providing as much as two months notice from the hearing date.

F. ANALYSIS

18. Clauses 61(1)(d) and (f) of the *Act* state:

61. Landlord's notice for cause

(1) A landlord may end a tenancy by giving a notice of termination where one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

...

(f) the tenant or a person permitted on the residential property by the tenant has caused unreasonable damage to a rental unit or the residential property;

19. The Commission is mindful that clauses 61(1)(d) and (f) of the Act do not contain wording to require a tenant, or a person permitted on the residential property, to intend the adverse consequences.
20. In the present matter, the Tenant, who lives in a non-smoking building, had a large build up of cigarette butts and a large amount of garbage and clutter on the Rental Unit's balcony. She acknowledges having smoked on the balcony a few days prior to the fire. The Commission finds that the Tenant did not intend to start a fire but her behaviour, on a balance of probabilities, was the cause of the fire.
21. Accordingly, the Commission agrees with the Rental Office in Order LD25-279 that the tenancy agreement must be terminated, pursuant to clauses 61(1)(d) and (f) of the Act.
22. Given the rather unusual facts of this matter, which include the Tenant's health concerns plus the ongoing involvement of support services such as homecare, as well as the fact that the Tenant has cleaned up her balcony thereby largely removing any ongoing concerns, the Commission is prepared to vary the termination of the tenancy agreement to January 31, 2026 at 5:00 p.m. at which time the Tenant must vacate the Rental Unit.

G. CONCLUSION

23. The appeal is denied. Order LD25-279 is confirmed, subject to a variation of the tenancy termination date to January 31, 2026 at 5:00 p.m.

IT IS ORDERED THAT

1. The appeal is denied.
2. Order LD25-279 is confirmed, subject to a variation in the termination date of the tenancy.
3. The tenancy between the parties will terminate on January 31, 2026 at 5:00 p.m. The Tenant and all occupants must vacate the Rental Unit by this date and time.
4. 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, 6th day of November, 2025.

BY THE COMMISSION:

[Sgd. Gordon MacFarlane]

Gordon MacFarlane, Commissioner

[sgd. Kerri Carpenter]

Kerri Carpenter, Vice-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.