



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

**Date Issued:** May 4, 2026  
**Dockets:** LR26005  
**Type:** Rental Appeal

INDEXED AS: Elizabeth Palmer v. Ashley Shaw  
2026 PEIRAC 22 (CanLII)  
Order No: LR26-17

**BETWEEN:**

Elizabeth Palmer (the "Tenant")

**Appellant**

**AND:**

Ashley Shaw (the "Landlord")

**Respondent**

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## ORDER

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Panel Members:

Kerri Carpenter, Vice Chair  
Gordon MacFarlane, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

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Commission Clerk

Island Regulatory and Appeals Commission

## **A. INTRODUCTION**

1. This appeal was heard by the Commission on March 24, 2026, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that the tenancy between the Landlord and Tenant is terminated and that the Tenant, the Occupant and all other occupants must vacate the Rental Unit.

## **B. BACKGROUND**

2. This appeal concerns a rental unit located at 232 Carleton Street, Borden-Carleton, PEI (the “Rental Unit”).
3. The Rental Unit is three-bedroom, two-bathroom single family house that the Landlord purchased from the Tenant and the Tenant’s spouse around January 22, 2021. The Landlord did not obtain the Rental Unit’s keys upon completion of the transaction.
4. The Landlord, the Tenant and the Tenant’s spouse entered into a written, fixed-term tenancy agreement from February 1, 2021 to February 28, 2022 (the “Tenancy Agreement”). A security deposit was not required. At the end of the fixed-term, the tenancy continued on a monthly basis.
5. The Tenant’s spouse moved out of the Rental Unit about one year into the tenancy. The Tenant’s spouse passed away on November 29, 2025.
6. The surviving Tenant moved out of the Rental Unit in 2023. The Tenant’s son (the “Occupant”) commenced living in the Rental Unit around this time and continues to reside there to present day.
7. Rent in the amount of \$1,074.76 is due on the first day of the month.
8. The Landlord and the Tenant were involved in two earlier Rental Office proceedings and one earlier Island Regulatory and Appeals Commission (the “Commission”) proceeding regarding ending the tenancy.
9. On October 4, 2023, the Occupant filed a statement of claim against the Landlord in the Supreme Court of Prince Edward Island (the “Court”). The Occupant made multiple claims, which include claims for a constructive trust and quantum meruit compensation regarding the Rental Unit. These claims are outside of the Rental Office’s jurisdiction.
10. On October 10, 2023, the Occupant filed a certificate of pending litigation with the Court and on October 11, 2023, this certificate was filed with the Registry of Deeds.
11. On January 3, 2024, the Landlord filed a Statement of Defence with the Court.
12. On November 13, 2025, the Landlord posted to the Rental Unit’s door two *Form 4(A) Eviction Notices* with a vacate date of December 31, 2025, (the “Notices”). The Landlord also emailed the Notices to the Tenant and the Tenant’s attorney (the “Attorney”) under a power of attorney.

13. On or about November 14, 2025 the Occupant filed a notice of motion (the "Motion") with the Court seeking an order restraining the Landlord's access to the Rental Unit.
14. On November 20, 2025 the Occupant filed a *Form 2(A) Tenant Application to Determine Dispute* (the "Application") with the Rental Office on behalf of the Tenant and the Occupant disputing the Notices.
15. On December 4, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for January 13, 2026, along with the Application.
16. On or about December 17, 2025 the Court dismissed the Occupant's Motion.
17. On December 18, 2025 the Rental Office emailed the parties notice of a teleconference hearing rescheduled for February 5, 2026.
18. On February 5, 2026 the Occupant, the Landlord and the Landlord's legal counsel ("Counsel") participated in a teleconference hearing. The parties confirmed that all evidence previously submitted to the Rental Office was included in the evidence package. Counsel submitted additional evidence regarding service of the Notices during the hearing.
19. On February 12, 2026, the Rental Office issued Order LD26-064, which ordered that the tenancy between the Landlord and Tenant will terminate effective 5:00 pm on February 19, 2026, and that the Tenant, the Occupant and all other occupants must vacate the Rental Unit by this date and time.
20. The Tenant appealed Order LD26-064 on February 17, 2026. The Landlord cross-appealed Order LD26-064 on February 20, 2026.
21. The Commission heard the appeal and cross-appeal on March 24, 2026, by way of telephone conference. The Occupant, attended on behalf of the Tenant, Elizabeth Palmer. Andrew MacDonald, of Key Murray Law, represented the Landlord, Ashley Shaw, who also attended the tele-hearing.
22. The applicable legislation is the *Residential Tenancy Act*, cap. R-13.11 (the "Act").

## **C. DISPOSITION**

23. The Tenant's appeal is **denied** and the Order LD26-064 issued by the Rental Office is upheld. The Landlord's cross-appeal for vacant possession is allowed. The Tenant shall vacate the Rental Unit by **5 p.m. on May 19, 2026**.

## **D. ISSUES**

24. Must the Tenant, Occupant and all other occupants vacate the Rental Unit, and if so, by what date?

## **E. SUMMARY OF EVIDENCE**

25. The Occupant submits that this dispute properly belongs before the Court and that the Landlord has improperly resorted to the Rental Office and this forum at the last moment. It is the Occupant's submission that this matter should continue in the Court process.
26. The Occupant acknowledges that the Tenant no longer resides in the Rental Unit, having moved first to a senior's residence and later to a care facility. However, he submits that the Tenant continues to attend the property periodically for family purposes.
27. The Occupant argues that the Tenancy Agreement remains in force and that termination would be unreasonable in the circumstances.
28. The Occupant confirmed he has continuously resided in the Rental Unit since October 2023 and an Order for him to vacate would be extreme.
29. The Occupant argues that he never denied access to the Landlord; he only argued with the conditions surrounding the access request.
30. The Occupant argues that the evidence does not support the Rental Office's findings and that the decision should be overturned.
31. The Landlord submits that she is the lawful owner of the Rental Unit and that the Tenancy Agreement was entered into solely with the Tenant (and formerly the Tenant's spouse). The Landlord asserts that the Occupant was not involved in these transactions.
32. The Landlord asserts that she has been denied meaningful access to her property and has not even been provided keys to the Rental Unit for over 2 years.
33. The Landlord asserts that the Occupant's occupancy and denial of access to her own property is being used in an attempt to control her.
34. The Landlord maintains that the Tenant has vacated the Rental Unit and that the Occupant has been residing there without authorization since at least 2023.
35. The Landlord further submits that there has been no assignment or sublet of the tenancy, nor any consent given for the Occupant's residence. She argues the Occupant has no lawful right to remain in the Rental Unit and that her rights are not being protected.
36. The Landlord argues that she is in a state of limbo, there are questions and ambiguity around the tenancy, who she is to communicate with, who gives consent regarding access and various other matters.
37. In her cross-appeal, the Landlord seeks an order for possession at the earliest reasonable date and submits that the tenancy has effectively ceased to function within the framework of the *Act*.
38. The Landlord submits that nothing has been presented by the Occupant to overturn the Director's Order, and no errors of law were made.

## F. ANALYSIS

39. The Landlord bears the burden of establishing, on a balance of probabilities, that there are sufficient grounds under the *Act* to terminate the tenancy in this matter.
40. For the reasons set out below, the Commission finds the Landlord has met this burden and has established a valid basis under the *Act* to end the tenancy and award vacant possession of the Rental Unit to the Landlord and that the Tenant, on appeal, has not convinced the Commission of any reason to vary or overturn Order LD26-064.
41. The Commission notes that a significant portion of the parties' submissions focused on collateral matters, which have been ongoing, including access disputes and continuing court proceedings. While these matters form part of the broader context of this matter, they are not determinative of the outcome of this appeal and risk obscuring the central legal question.
42. The determinative issue for the Commission is whether the Tenant has permitted an unauthorized transfer of possession, amounting to a sublet or assignment, of the Rental Unit contrary to the *Act*.
43. The evidence establishes that the Tenant no longer resides primarily in the Rental Unit. It is acknowledged the Tenant relocated first to a seniors' residence and later to a long-term care facility in 2023. While the Occupant stated that the Tenant continues to visit the Rental Unit for family purposes from time to time, the Commission is satisfied that the Tenant no longer lives at the Rental Unit.
44. The evidence further establishes that although not a party to the Tenancy Agreement, the Occupant has resided in the Rental Unit from 2023 to present day.
45. Under the *Act*, a person who is not named in a tenancy agreement but resides in the unit is generally considered an "occupant". Because an occupant lacks a direct contractual relationship with the landlord, they typically do not have the same protections as a "tenant" under the *Act* once the actual tenant has vacated.
46. Under section 1(w) of the *Act*, a "tenant" is defined as a person entitled to possession under a tenancy agreement. The Occupant in this case does not meet that definition.
47. Section 30(1) of the *Act* requires the Tenant to obtain the Landlord's written consent prior to assigning or subletting a rental unit.

*"A tenant may, with the written consent of the landlord, sublet or assign a rental unit or part of a rental unit to another person."*

48. Subsection 61(1)(i) of the *Act* permits termination where a tenant purports to assign or sublet without such consent.

*"A landlord may end a tenancy by giving notice of termination where one or more the following applies" ... (i) "the tenant purports to assign or sublet the rental unit without first obtaining the landlord's written consent as required by section 30."*

49. The Commission accepts that no written consent was sought or obtained from the Landlord.
50. The evidence thus demonstrates that:
- The Tenant no longer resides in the Rental Unit as her primary residence;
  - Although not a tenant, the Occupant has assumed ongoing, day-to-day residency, possession and control of the Rental Unit; and
  - the Landlord has not consented to this arrangement.
51. As the Rental Unit has not been legally assigned or subletted to the Occupant, the Commission finds that the Occupant is therefore an unauthorized person in possession of the Rental Unit.
52. The Commission finds that the Tenant has affected an unauthorized sublet or transfer of possession to the Occupant, amounting to an unauthorized assignment or sublet within the meaning of the *Act*.
53. The Commission finds that the Occupant is an unauthorized occupant without a legal right to remain in possession of the Rental Unit as against the Landlord. As outlined above, such individuals do not acquire independent rights of possession as against a landlord absent a lawful assignment or sublet.
54. The Commission further finds that permitting such an arrangement without the consent of the Landlord undermines the statutory framework of the *Act*, which preserves the landlord's right to approve who is in possession of the premises. In the particular circumstances of this case, the Commission notes that it would not be unreasonable for the Landlord to withhold consent to a sublet or assignment in respect of the Occupant.
55. The Commission emphasizes that situations of this nature should not be permitted to arise in a manner that deprives landlords of reasonable access to and control over their own property. Where a tenant has effectively vacated a rental unit and an unauthorized occupant assumes possession without the landlord's consent, the landlord is placed in an untenable position – unable to exercise his or her lawful rights while still bearing the obligations of ownership.. Allowing such arrangements to persist would again undermine the integrity of the statutory scheme and unfairly prejudice landlords who are acting in good faith to regain lawful possession of their premises.
56. Accordingly, the Landlord has established a valid basis to (1) terminate the tenancy pursuant to subsection 61(1)(i) of the *Act*; and (2) provide vacant possession to the Landlord.

## **G. CONCLUSION**

57. The Tenant's appeal is dismissed. The Landlord's cross-appeal is allowed.
58. Order LD26-064 is upheld, subject only to a variation of the date that the Tenant, Occupant and all other occupants must vacate the Rental Unit to May 19, 2026 to allow for an orderly transition.

