



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR-09033
Order LR10-05**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Courtney Melvin and Patrick
Carroll against Order No. LD09-345 of the
Director of Residential Rental Property dated
November 6, 2009

BEFORE THE COMMISSION
on Friday, the 15th day of January, 2010.

John Broderick, Commissioner
Gordon McCarville, Commissioner
Anne Petley, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson
Commission Administrator

IN THE MATTER of an appeal, under Section 25 of the Rental of Residential Property Act, by Courtney Melvin and Patrick Carroll against Order No. LD09-345 of the Director of Residential Rental Property dated November 6, 2009

Order

INTRODUCTION

On November 27, 2009 the Commission received a Notice of Appeal filed by Courtney Melvin and Patrick Carroll (the Appellants).

By way of background, Mary Leah Trainor (Ms. Trainor) provided to the Appellants a Form 8 - Notice of Intention to Retain Security Deposit dated June 8, 2009. On June 15, 2009, the Appellants filed with the Office of the Director of Residential Rental Property (the Director) a Form 9 – Application re: Determination of Security Deposit.

In Order LD09-345 the Director found that:

“...the lessor is entitled to retain the sum of \$175.34 from the security deposit and the lessees are entitled to the balance.”

The appeal was heard by the Commission on December 7, 2009. The Appellants represented themselves. Ms. Trainor represented herself.

EVIDENCE

The Appellants stated that they felt they were being misled. They questioned whether the repair to the kitchen stove was actually made. They noted that the date of the receipt for the stove part was after the hearing date. They do not deny that the damage was done or responsibility for the damage.

Ms. Trainor noted that the fire occurred in October 2008. She ordered the part over a year ago. She believed the part had been paid for and installed. She was surprised to find out that the company she ordered the part from failed to submit the order. She re-ordered the part and it was expected to arrive in December 2009.

DECISION

The Commission denies the appeal for the reasons that follow.

The Appellants moved into the apartment in May 2008 and gave up possession in May 2009. During their tenancy there was a frying pan fire. Damage occurred to the apartment. Damage to the apartment itself was covered by Ms. Trainor's insurance. However, the damage to the stove was not covered.

The Commission agrees with the Director that the damage appears to have resulted from the negligence of the Appellants.

In the present matter, damage to Ms. Trainor's property was caused by the actions of the Appellants. Whether Ms. Trainor replaces the part is not relevant to this appeal. Ms. Trainor suffered a loss to her property due to the negligence of her former tenants and she is therefore entitled to be compensated from the security deposit.

Accordingly, the Commission confirms the Director's order LD09-345 in its entirety.

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 hereby denied.
2. Order LD09-345 is confirmed in its entirety. The Respondent Mary Leah Trainor shall receive the sum of \$175.34 from the security deposit funds held in trust (the security deposit) and the Appellants Courtney Melvin and Patrick Carroll shall receive the sum of \$26.54 from the security deposit.

DATED at Charlottetown, Prince Edward Island, this 15th day of January, 2010.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Gordon McCarville

Gordon McCarville, Commissioner

(Sgd.) Anne Petley

Anne Petley, Commissioner

NOTICE

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

NOTICE: IRAC File Retention

In accordance with the Commission's Records Retention and Disposition Schedule, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.

IRAC141y-SFN(2009/11)