



**Docket LR10024
Order LR11-05**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Shari Harris against Order
LD10-317 of the Director of Residential
Rental Property dated November 3, 2010

BEFORE THE COMMISSION
on Wednesday, the 2nd day of March, 2011.

John Broderick, Commissioner
Allan Rankin, Vice-Chair
Jean Tingley, 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 Shari Harris against Order
LD10-317 of the Director of Residential
Rental Property dated November 3, 2010**

Order

On November 19, 2010 the Commission received a Notice of Appeal from Shari Harris (the Appellant) requesting an appeal of Order LD10-317 dated November 3, 2010 issued by the Director of Residential Rental Property (the Director).

By way of background, on July 8, 2010 Bernadette DesRoches (the Respondent) filed with the Director a Form 8 – Notice of Intention to Retain Security Deposit dated July 5, 2010. On July 8, 2010 the Appellant filed with the Director a Form 9 – Application re Determination of Security Deposit.

In Order LD10-317, the Director found that:

“IT IS THEREFORE ORDERED THAT

1. The lessors shall receive a payment of \$1,067.50.
2. Payment to the lessors shall be made after the appropriate appeal period has expired.”

The Commission held a brief hearing on December 7, 2010 in order to adjourn the hearing without date as the Appellant was not able to be present. Upon consultation with both parties, the Commission rescheduled the hearing and the appeal was heard on January 27, 2011. Both the Appellant and the Respondent were present. Dean Sexton was a witness for the Respondent.

EVIDENCE

The Appellant filed a written statement at the hearing [Exhibit E-49]. The Appellant submits that on October 28, 2008 the Appellant provided the Respondent with a cash payment of \$2300.00 representing one month's rent and a security deposit. The Appellant submits that this security deposit was not used for rent in December 2008, that she never signed the March 30, 2009 letter and thus the deposit should be returned to her.

The Respondent testified that the Appellant had telephoned on December 24, 2008 to advise that she didn't have the rent money and requesting that the security deposit be used for this purpose. The Respondent advised the Appellant that she would have to pay two month's rent when the rent became due in January 2009. However, in January only one month's rent was paid. The Respondent made attempts to obtain the December rent money and the response was that the Appellants couldn't afford it. The Respondent then prepared the March 30, 2009 letter noting that the security deposit was used to pay the December 2008 rent and therefore said deposit "has Zero balance".

In addition, the parties disputed the labour cost associated with the installation of new flooring installed by one of the tenants.

The Commission finds that the evidence presented at the hearing does not convince the Commission to overturn Director's Order LD10-317.

The Commission wishes to emphasize, once again, the importance of written receipts for rent paid and the importance of a written agreement for any labour services provided by a tenant to a landlord.

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. Director's Order LD10-317 is hereby confirmed and is in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **2nd** day of **March**, 2011.

BY THE COMMISSION:

(Sgd.) John Broderick
John Broderick, Commissioner

(Sgd.) Allan Rankin
Allan Rankin, Vice-Chair

(Sgd.) Jean Tingley
Jean Tingley, 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)