



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11005
Order LR11-10**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by A & M Holdings Inc. Rentals
against Order LD11-066 of the Director of
Residential Rental Property dated March 21,
2011

BEFORE THE COMMISSION
on Wednesday, the 11th day of May, 2011.

John Broderick, Commissioner
Michael Campbell, Commissioner
Leonard Gallant, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson
Commission Administrator

IN THE MATTER of an appeal, under
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against Order LD11-066 of the Director of
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Order

On March 28, 2011 the Commission received a Notice of Appeal from A & M Holdings Inc. Rentals (the Appellant) requesting an appeal of Order LD11-066 dated March 21, 2011 issued by the Director of Residential Rental Property (the Director).

By way of background, on October 15, 2010 Louis Paul Medouze (the Respondent) filed an application pursuant to section 8.(d.1) of the **Rental of Residential Property Act** (the **Act**) requesting a return of his \$300.00 security deposit. On October 28, 2010 the Appellant, through its representative Garry DesRoches, filed with the Director a Notice of Intention to Retain Security Deposit dated September 10, 2010.

A Notice of Hearing dated February 8, 2011 was sent to the parties advising them that a hearing was scheduled for February 23, 2011 before the Director. The hearing was held as scheduled and the Director ordered that:

- “1. *The lessee shall received a payment of \$235.00.*
2. *The lessor shall receive a payment of \$65.00.*
3. *Payment to each of the parties shall be made after the appropriate appeal period has expired.”*

The hearing before the Commission took place on April 11, 2011. The Appellant was represented by Garry DesRoches (Mr. DesRoches). The Respondent was also present.

Position of Appellant

Mr. DesRoches presented a copy of an invoice to establish that he had paid \$78.26 as a result of the Respondent not returning the keys on time. Mr. DesRoches also presented a letter from Jody Collins. In this letter, Mr. Collins states that he cleaned the apartment on August 30, 2010.

Mr. DesRoches told the Commission that he and Mr. Collins started cleaning the apartment at about 6:00 p.m. on August 30, 2010. They spent about four hours cleaning the apartment. Mr. DesRoches believes that the Respondent went back to the apartment after it was cleaned and took the pictures which were filed with the Director.

Position of Respondent

The Respondent told the Commission that he and his family cleaned the apartment on August 29, 2010. He called Andrew Heggie a few minutes before 10:00 p.m. that evening. Mr. Heggie informed him that it was too late that night and he would view the apartment later. The Respondent related to the Commission his attempts to contact Mr. Heggie the next day to look at the apartment. The Respondent wanted Mr. Heggie to see the apartment so the Respondent would know if there was any further cleaning required, as the rental agreement specified that he had the apartment until August 31, 2010. The Respondent arrived at the apartment in the early evening of August 30, 2010 to find Mr. DesRoches and another man cleaning the apartment. The Respondent maintained that he had until August 31, 2010 to clean the apartment and that it was clean when he and his family moved out.

The Commission's Decision

The Commission allows this appeal, but only in part.

The Director allowed the Appellant \$40.00 for costs to replace keys which were not returned by the Respondent. At the hearing before the Director, the Appellant did not provide any receipts to support the Appellant's claim for \$75.00. However, at the hearing before the Commission, the Appellant filed a receipt for locksmith services in the amount of \$78.26. Accordingly, the Commission increases the allowed claim for locksmith services from \$40.00 to \$78.26.

The Commission agrees with the Director that the Appellant receive the sum of \$25.00 for labour and the use of a vehicle to remove an item left in the apartment by the Respondent.

With respect to the various claims for cleaning services made by the Appellant totaling \$170.00, the Commission rejects this claim. The Commission finds that on the evening of August 29, 2010 the Respondent and his family had cleaned the apartment. The Respondent then tried to contact Mr. Heggie late that evening for the purpose of inspecting the apartment. Understandably, Mr. Heggie did not want to come out to inspect at 10:00 p.m. that night. However, the Respondent then spent most of the next day trying to track down Mr. Heggie and Mr. Heggie was not cooperative in setting up a meeting and no meeting thus occurred. The Respondent arrived back at the apartment to find Mr. DesRoches and Mr. Collins cleaning the apartment, even though the Respondent and his family were entitled to retain possession until August 31, 2010. The Commission finds that the Respondent had intended to further clean the apartment had any further cleaning been required after an employee or a principal of the Appellant performed an inspection.

According, the Commission varies Order LD11-066 as follows: the Appellant [lessor] shall receive a payment of \$103.26 from the security deposit funds, while the Respondent [lessee] shall receive the balance of these funds, that is to say, a payment of \$196.74.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

IT IS ORDERED THAT

1. The Appellant A&M Holdings Inc. Rentals shall receive a payment of \$103.26.
2. The Respondent Louis Paul Medouze shall receive a payment of \$196.74.

DATED at Charlottetown, Prince Edward Island, this 11th day of May, 2011.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Michael Campbell

Michael Campbell, Commissioner

(Sgd.) Leonard Gallant

Leonard Gallant, 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)