



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR12015
Order LR12-25**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Amirhossein Hosseinzadeh
against Order LD12-178 dated July 13, 2012
issued by the Director of Residential Rental
Property

BEFORE THE COMMISSION
on Thursday, the 11th day of October, 2012.

Allan Rankin, Vice-Chair
Michael Campbell, Commissioner
Jean Tingley, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Land, Corporate and Appellate Services Division

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**Section 25 of the Rental of Residential
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BACKGROUND

On August 3, 2012 the Commission received a Notice of Appeal dated the same date signed by a lessee, Amirhossein Hosseinzadeh (the Appellant) requesting an appeal of Order LD12-178 dated July 13, 2012 issued by the Director of Residential Rental Property (the Director).

By way of background, on May 23, 2012 the Appellant filed with the Director a Form 9 – Notice re Determination of Security Deposit dated the same day to which was attached a Form 8 – Notice of Intention to Retain Security Deposit signed by a lessor, PRM Holdings Inc. (the Respondent) dated May 10, 2012.

The matter was heard by the Director on July 4, 2012. In Order LD12-178 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. the lessor shall receive a payment of \$255.00 from the funds held in trust;*
- 2. the lessee shall receive a payment of \$139.84 from the funds held in trust;*
- 3. the funds shall be disbursed after the appropriate appeal period has expired.”*

A hearing was scheduled for August 29, 2012; however, the Appellant was not available and formally requested a postponement until a date in September. On August 24, 2012, the Commission briefly convened a hearing for the purpose of setting the matter over until a future date.

After consulting with both parties, Commission staff set a new hearing date and the appeal was heard by the Commission on September 20, 2012. The Appellant was present and was joined by a co-tenant Arvin Sepahdoost. Andrea Corder testified on behalf of the Appellant. The Respondent was represented by Paul Gallant. Sibyl Dennis and Steve Cote testified on behalf of the Respondent.

EVIDENCE

The Appellant testified that the apartment was cleaner when he and his co-tenant moved out than when they moved in. They tried to contact Mr. Gallant in order for him to inspect their cleaning but he did not come. They took videos to show what the apartment looked like after they had cleaned it.

Ms. Corder testified that she assisted in the cleaning of the apartment. She has worked as a hotel housekeeper and gave the portions of the apartment she worked on a thorough cleaning. She was not aware that the metal trim rings around the stove burners could come off for cleaning.

Mr. Gallant told the Commission that a video was taken by the Respondent. This video shows that the cleaning was not sufficient. The apartment was painted just before the Appellant moved in and the apartment should not have to be repainted every year. There were gouges in various walls. The doors were dusty and there was dust under the radiators. When the new tenant arrived she was not satisfied with the condition of the apartment.

Ms. Dennis testified that she had cleaned the apartment before the Appellant moved in and she also cleaned it after the Appellant and the co-tenant moved out.

Mr. Cote testified that he painted the apartment completely before the Appellant and co-tenant moved in. When they moved out, he had to repair and paint walls. The ceilings and closets were in good condition. He noted that the damage was beyond normal wear and tear and it is not normal to have to paint after only one year.

DECISION

The Commission allows the appeal and varies Order LD12-178 as described below.

After viewing the videos from both parties, the testimony of the parties and the evidence as a whole, the Commission is not convinced that all the re-painting shown in the photographs contained in Exhibit E-16 was actually necessary. Accordingly, the Commission reduces the claim for painting and wall repair from \$210.00 to \$105.00.

With respect to the cleaning claim, the Commission finds that the Appellant and co-tenant overlooked some areas. Based on the Respondent's video, this primarily consisted of the stove top under the burner trim rings, the tile grout surrounding the bathtub and the dust under the radiators. The Commission finds that two hours labour should have been enough. Accordingly, the Commission reduces the claim for cleaning from \$45.00 to \$30.00.

As a result, the Commission determines that the Respondent shall receive \$135.00 from the security deposit funds held in trust and the Appellant shall receive the balance of the security deposit, namely \$259.84.

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 allowed and Director's Order LD12-178 is varied.
2. The Respondent (lessor) shall receive a payment of \$135.00 from the security deposit funds held in trust.
3. The Appellant (lessee) shall receive a payment of \$259.84 from the security deposit funds held in trust.
4. The funds shall be dispersed after the expiry of the appeal period set out in subsection 26(2) of the *Rental of Residential Property Act*.

DATED at Charlottetown, Prince Edward Island, this 11th day of **October**, 2012.

BY THE COMMISSION:

(sgd. Allan Rankin)

Allan Rankin, Vice-Chair

(sgd. Michael Campbell)

Michael Campbell, Commissioner

(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)