



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14012
Order LR14-14**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, made by PEI Apartments Inc.
against Order LD14-105 dated April 4, 2014
issued by the Director of Residential Rental
Property.

BEFORE THE COMMISSION
on Tuesday, the 17th day of June, 2014.

John Broderick, Commissioner
M. Douglas Clow, Vice-Chair
Leonard Gallant, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Land, Corporate and Appellate Services Division

IN THE MATTER of an appeal under
**Section 25 of the Rental of Residential
Property Act, made by PEI Apartments Inc.
against Order LD14-105 dated April 4, 2014
issued by the Director of Residential Rental
Property.**

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BACKGROUND

On April 25, 2014 the Commission received a Notice of Appeal dated the same day signed by Jason Pitre (“Mr. Pitre), representative of a lessor, PEI Apartment Inc. (the “Appellant”) requesting an appeal of Order LD14-105 dated April 4, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on September 4, 2013 a lessee, Dianne Mahar (the “Respondent”) filed with the Director a Form 2 – Application re Determination of Security Deposit to which was attached a Form 8 – Notice of Intention to Retain Security Deposit dated August 10, 2013.

The matter was heard by the Director on March 31, 2014 and in Order LD14-105 the Director ordered:

‘IT IS THEREFORE ORDERED THAT

- 1. The lessor shall receive a payment of \$367.60 from the funds held in trust.**
- 2. The lessee shall receive a payment of \$464.92 from the funds held in trust.**
- 3. Payment shall be made after the appropriate appeal period has expired.”**

The matter was heard before the Commission on May 21, 2014. The Appellant was represented by Leigh Ogg. The Respondent was also present.

EVIDENCE

Ms. Ogg submitted that the allowance for cleaning be increased from three hours at \$15.00 per hour to seven hours at \$15.00 per hour. With HST, this would total \$119.70. Ms. Ogg filed colour photographs of the unit to support the Respondent’s claim for a cleaning allowance [Exhibit E-24]. Ms. Ogg also referenced the carpet cleaning invoice [Exhibit E-14] noting it was just for “regular carpet cleaning” and not for stain removal. Ms. Ogg submitted that the Director had ordered recovery of \$150.00 that was already credited to the Respondent [Form 8, Exhibit E-2].

The Respondent submitted she had thoroughly cleaned the unit and did not know where the pictures filed by the Appellant's representative came from. In particular she questioned whether the picture of the stove was the same stove.

DECISION

The Commission denies the appeal for the reasons that follow.

The Commission agrees with the Rental Property Officer's finding that three hours cleaning at \$15.00 per hour for a total of \$45.00 is appropriate for the cleaning required.

With respect to the Appellant's claim for carpet cleaning, the Rental Property Officer found that the carpeting was badly stained before the Respondent had moved in to the unit. The Appellant attempted to justify a "regular carpet cleaning" for the carpet. The Commission rejects the notion that a badly stained carpet which pre-existed the relevant tenancy should require a general cleaning. The Commission agrees with the Rental Property Officer's finding that the carpet cleaning of \$106.02 with HST was an invalid claim.

The Commission finds that the Rental Property Officer explained carefully [last paragraph of page 3 and the first paragraph of page 4 of the Director's Order] the issue of the \$150.00 cleaning credit. The Commission has reviewed these calculations and reviewed the Form 8 [Exhibit E-2] and finds no error in the Rental Property Officer's calculations and findings.

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 denied.
2. Order LD14-105 is hereby confirmed in its entirety.

DATED at Charlottetown, Prince Edward Island, this **17th** day of **June**, 2014.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(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)