



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR14021  
Order LR14-23**

**IN THE MATTER** of an appeal, under Section 25 of the Rental of Residential Property Act, by Wayne Richards (represented by Randy Pitre) against Order LD14-206 of the Director of Residential Rental Property, dated June 30, 2014.

**BEFORE THE COMMISSION**

on Monday, the 8th day of September, 2014.

John Broderick, Commissioner  
Ferne MacPhail, Commissioner  
Peter McCloskey, Commissioner

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# Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

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Commission Administrator  
Corporate Services & Appeals Division

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# Order

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## BACKGROUND

On July 10, 2014, the Commission received a Notice of Appeal from a lessor, Wayne Richards, as represented by Randy Pitre (the Appellant) requesting an appeal of Order LR14-206, dated June 30, 2014.

By way of background, on September 30, 2013 a lessee, Ayuel Leek Deng (the "Respondent") filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement.

The matter was heard by the Director on May 26 and May 27, 2014 and in Order LD14-206 the Director ordered:

### **'IT IS THEREFORE ORDERED THAT**

- 1. The lessor shall return the mini-refrigerator and the white board to the lessee forthwith."**

The Commission heard the appeal on July 30, 2014. Mr. Pitre represented the Appellant. The Respondent was also present.

## EVIDENCE

Mr. Pitre testified that the Appellant has 60 units. Three of these units are extra-large and have mini-fridges. A mini-fridge was provided in the room rented to the Respondent. The Respondent left the unit in April 2013 expecting to return in September. During that time, all the Respondent's items were placed in secure and locked storage. His room was then rented to someone else for the summer. The Respondent arrived back in early August 2013, one month early. Mr. Pitre attempted to accommodate him by providing another smaller room in a different building. There was no mini-fridge in that room. The Respondent wanted his mini-fridge and whiteboard but these items had not been placed in storage.

Mr. Pitre contends that the Respondent did not rent from him before December 2012.

The Respondent testified that he moved into the original room on June 13, 2012 and paid \$2,540.00 as identified in Exhibit E-8. On June 14, 2012, he purchased a mini-fridge for \$168.00, not including tax, as noted in Exhibit E-10. On September 5, 2012, he purchased a whiteboard for \$35.99, not including tax, as noted in Exhibit E-9. He left in April 2013 to go to Alberta for the summer of 2013. When he returned to Charlottetown, he asked for his items out of storage. The mini-fridge and whiteboard were not there.

## **DECISION**

The Commission denies the appeal for the reasons that follow.

The Appellant stated that the tenancy did not begin before December 2012 while the Respondent maintained that it began in June 2012. Exhibit E-8 establishes that the tenancy commenced in June 2012 as the Respondent paid \$2,540.00 to Mr. Pitre on June 13, 2012. Exhibit E-10 establishes that the Respondent purchased a mini-fridge and other items from Walmart on June 14, 2012 and Exhibit E-12 provides further support for this purchase.

The Appellant stated that the unit he originally rented to the Respondent contained a mini-fridge, while the Respondent stated that there was no mini-fridge provided.

Based on the evidence before the Commission, weighed pursuant to the civil standard of the balance of probabilities, the Commission finds that the tenancy commenced in June 2012 and there was no mini-fridge provided by the Appellant. The Respondent promptly purchased a mini-fridge. In early September 2012, coinciding with the commencement of the academic year, the Respondent purchased a whiteboard.

The Commission agrees with the findings of the Director and confirms the Director's Order to return the mini-fridge and the whiteboard, the value of which has been established pursuant to Exhibits E-9 and E-10.

**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. The Director's Order LD14-206 is hereby confirmed. The Appellant (lessor) shall return the Respondent's (lessee's) mini-fridge and whiteboard forthwith.
3. In the event the Appellant is unable to return the Respondent's mini-fridge, the Appellant shall pay the Respondent the sum of \$168.00 plus 5% GST of \$8.40, plus 10% PST of \$17.64, for a total of \$194.04, said total sum to be paid on or before September 30, 2014.
4. In the event the Appellant is unable to return the Respondent's whiteboard, the Appellant shall pay the sum of \$35.99 plus 5% GST of \$1.80, plus 10% PST of \$3.78, for a total of \$41.57, said total sum to be paid on or before September 30, 2014.

**DATED** at Charlottetown, Prince Edward Island, this **8th** day of **September**, 2014.

**BY THE COMMISSION:**

(sgd. John Broderick)

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John Broderick, Commissioner

(sgd. Ferne MacPhail)

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Ferne MacPhail, Commissioner

(sgd. Peter McCloskey)

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Peter McCloskey, 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.