



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14018
Order LR14-24**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Neil and Darlene Lawless,
against Order LD14-185 dated June 17, 2014
issued by the Office of the Director of
Residential Rental Property.

BEFORE THE COMMISSION
on Tuesday, the 16th day of September,
2014.

John Broderick, Commissioner
M. Douglas Clow, Vice-Chair
Michael Campbell, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Corporate Services and Appeals

IN THE MATTER of an appeal under Section 25 of the Rental of Residential Property Act, by Neil and Darlene Lawless, against Order LD14-185 dated June 17, 2014 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On July 3, 2014 the Commission received a Notice of Appeal dated the same day signed by a lessor, Neil Lawless on behalf of himself and Darlene Lawless (the “Appellants”) requesting an appeal of Order LD14-185 dated June 17, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on July 25, 2013 two lessees, David Jameson and Jennifer Lidstone (the “Respondents”) filed with the Director a Form 9 – Application re Determination of Security Deposit to which was attached a Form 8 – Notice of Intention to Retain Security Deposit dated July 9, 2013.

The matter was heard by the Director on April 17, 2014 and in Order LD14-185 the Director ordered:

‘IT IS THEREFORE ORDERED THAT

- 1. The lessees shall receive the sum of \$385.00 from the security deposit funds held in trust.**
- 2. The lessors shall receive the sum of \$22.75 from the security deposit funds held in trust.**
- 3. Payment to each of the parties shall be made after the appropriate appeal period has expired.”**

The matter was heard before the Commission on August 4, 2014. The Appellants were represented by Neil Lawless. The Respondents were present.

EVIDENCE

The Appellant took issue with the Director’s Order. The premises were only 4.5 years old when the Respondents moved out. The Appellant submitted that the walls and ceilings were painted before the Respondents had moved in. The Appellant submitted that he spent a total of nine hours on July 1, 2013 cleaning, seam filling, sanding and painting. Much of the damage occurred to walls inside the garage.

The Appellant disputed that the damage to the interior door was caused by a tricycle, having measured a typical tricycle in a retail store. The Appellant filed photographs noting such measurements. The Appellant also submitted that there were chips in the laminate flooring and filed photographs of this. The Appellant also had to replace the screen in the living room window.

The Appellant noted that he did give the Respondents an allowance for repairs they did to the driveway.

The Respondents submit that there were more scuff marks when they moved in than suggested by the Appellants' photographs. The Respondents submitted that they cleaned and repainted the kitchen and bedrooms. The garage and utility room were the last to be cleaned. The Respondents admitted that they did have posters and shelving units in the garage; stating that they treated the unit "as a home". The Respondents noted that the Appellant did not have pictures of the garage walls before applying the seam-filling compound.

DECISION

The Commission allows the appeal for the reasons that follow.

The Commission has reviewed very carefully the pictures and the Appellants' spreadsheet outlining damage done and repairs made. A total of \$407.75 was paid in trust for security deposit funds in dispute. The Commission finds that the Appellants are entitled to the following as a result of damage to the premises:

(a)	for cleaning products for stove	-	\$ 10.25
(b)	for a new interior door – not pre-hung	-	45.00
(c)	for installation of the interior door	-	85.00
(d)	allowance for chips to laminate floor beyond ordinary wear and tear	-	75.00
(e)	for paint supplies and paint	-	20.00
(f)	for labour [6.5 hours at \$15.00 per hour]	-	<u>97.50</u>
		Subtotal	\$332.75
	<u>Minus:</u>		
(a)	credit for driveway repair performed by Respondents	-	<u>(\$25.00)</u>
		TOTAL	<u>\$307.75</u>

The Commission finds that the sum of \$307.75 is payable to the Appellants from the \$407.75 in security deposit funds held in trust by the Director. The Commission finds that the remaining sum of \$100.00 is payable to the Respondents.

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.
2. The Appellants (lessors) shall receive the sum of \$307.75 from the security deposit funds held in trust.
3. The Respondents (lessees) shall receive the sum of \$100.00 from the security deposit funds held in trust.
4. Payment to each of the parties shall be made after the expiry of the appeal period.

DATED at Charlottetown, Prince Edward Island, this **16th** day of **September, 2014**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(sgd. Michael Campbell)

Michael Campbell, 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)