



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14029
Order LR14-31**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Shana Aceac and
Kimberley Aceac against Order LD14-263
issued by the Office of the Director of
Residential Rental Property on August 21,
2014.

BEFORE THE COMMISSION

on Monday, the 3rd day of November, 2014.

John Broderick, Commissioner
Ferne MacPhail, Commissioner
Peter McCloskey, 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, filed by Shana Aceac and Kimberley Aceac against Order LD14-263 issued by the Office of the Director of Residential Rental Property on August 21, 2014.

Order

BACKGROUND

On September 2, 2014 the Commission received a Notice of Appeal from two lessees, Shana Aceac and Kimberley Aceac (the “Appellants”), requesting an appeal of Order 14-263 dated August 21, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on December 24, 2013 the Appellants filed with the Director a Form 9 – Application re Determination of Security Deposit dated December 23, 2013, together with a copy of a Form 8 – Notice of Intention of Retain Security Deposit signed by a lessor, George Bagnall on behalf of himself and Nora Bagnall (the “Respondents”).

The matter was heard by the Director on June 24, 2014 and in Order LD14-263 the Director ordered:

“IT IS THEREFORE ORDERED THAT:

- 1. The lessors shall receive the security deposit funds of \$501.07 held in trust.*
- 2. Payment to the lessors shall be made after the appropriate appeal period has expired.”*

The matter was heard by the Commission on September 22, 2014. The Appellants were represented by Don Norman (“Mr. Norman”). The Respondents were represented by Nora Bagnall (Ms. Bagnall).

EVIDENCE

Mr. Norman told the Commission that he was generally satisfied with the Director’s Order. However, he has concerns about immigrant families losing their security deposits because they do not know what the rules are, especially with respect to Form 8 and security deposits in general. He also submitted that the Appellants took possession of the premises on October 5, 2013, gave their notice on November 5, 2013 and moved out on November 20, 2013.

Ms. Bagnall told the Commission that the Appellants originally took possession of a different unit, Apartment 3, on September 28, 2013. The electricity was to be hooked up on October 1, 2013; however, the Appellants started moving their belongings into Apartment 3 ahead of time. The Appellants then decided that they wanted Apartment 6. The Respondents provided the Appellants with keys for Apartment 6 on October 3, 2013 and they then began to transfer their belongings from Apartment 3 to Apartment 6. When the Appellants gave their notice they did not give a termination date and the termination notice was not in writing. On December 1, 2013, the Appellants were still in the process of removing their belongings. On December 3, 2013, the electricity was still on in Apartment 6. The Appellants turned in one key on December 9 or 10, 2013.

Ms. Bagnall noted that the Respondent requires all rental payments to be paid on the first day of each month.

DECISION

The Commission denies the appeal for the reasons that follow.

The Appellants' representative was satisfied with the Director's Order. The purpose of the appeal appears to be to express concern about a lack of understanding of legal requirements associated with security deposits.

The Commission is satisfied that there are no errors in Order LD14-263 and the Commission finds that there is no new evidence that would support any variance of said Order.

With respect to Mr. Norman's concerns, the Commission notes that there are organizations that assist newcomers who have moved to Prince Edward Island. In addition, the Office of the Director maintains staff to provide information to interested parties upon request. The requirements of the ***Rental of Residential Property Act (the Act)*** have been established by the Legislature of the Province of Prince Edward Island. The Director and the Commission have no authority to make any changes to the ***Act***, its Regulations, or the Forms prescribed by the Regulations and thus any desired changes may only be made by the Legislature.

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 LD14-263 is confirmed in its entirety.**
3. **The Respondents (lessors) shall receive the security deposit funds of \$501.07 held in trust.**
4. **The payment to the Respondents (lessors) shall be made after the appropriate appeal period has expired.**

DATED at Charlottetown, Prince Edward Island, this **3rd** day of **November**, **2014**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Ferne MacPhail)

Ferne MacPhail, Commissioner

(sgd. Peter McCloskey)

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.

IRAC141y-SFN(2009/11)