



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR14050
Order LR15-09**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Susan Vondette
against Order LD14-422 issued by the
Director of Residential Rental Property dated
December 12, 2014.

BEFORE THE COMMISSION
on Tuesday, the 21st day of April, 2015.

John Broderick, Commissioner
Leonard Gallant, Commissioner
Jean Tingley, 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 Susan Vondette against Order LD14-422 issued by the Director of Residential Rental Property dated December 12, 2014.

Order

BACKGROUND

On December 29, 2014 the Commission received a Notice of Appeal from a lessee, Susan Vondette (the “Appellant”), requesting an appeal of Order LD14-422 dated December 12, 2014 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on May 14, 2014, the Appellant filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement dated May 7, 2014. A copy of said Application was mailed by the Director to the lessor, Glen Fisher (the “Respondent”) on May 15, 2014.

The matter was heard by the Director on November 27, 2014 and in Order LD14-422 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessee is entitled to receive the security deposit plus interest in the amount of \$102.00.*
- 2. The lessee’s claim for a return of rent is dismissed.”*

The matter was heard by the Commission on January 22, 2015. The Appellant participated at the hearing by telephone conference call. The Respondent was not present in the hearing room.

EVIDENCE

The Appellant testified that she was visiting in New Brunswick and thus away from the residential premises in March 2014. She expected to return on April 1, 2014. While in New Brunswick, she received a telephone call from another tenant who asked if he could stay in her unit as the fire inspector had prohibited him from staying in his unit. The Appellant agreed to this request. The Appellant testified that she had made a rent payment of \$187.50 on or about March 20, 2014 via direct deposit to the Respondent’s bank account to cover the two weeks until April 3, 2014, see also Exhibit E-8. Upon her return, the Appellant was surprised to find that the other tenant had moved in to her unit.

The Appellant stated that she had fully intended to return to her unit in April 2014 and thus she had left her clothing and furniture there.

DECISION

The Commission allows the appeal for the reasons that follow.

An appeal before the Commission is a *hearing de novo* (a new or a fresh hearing). The Commission had the testimony of the Appellant as well as the information contained in the Appellant's Notice of Appeal and attachment (Exhibit E-8). The Respondent did not respond to the information contained in Exhibit E-8, nor did he attend the hearing in order to provide his own testimony before the Commission. The Appellant offered a plausible account of the circumstances, which was not refuted by the Respondent at the appeal before the Commission.

Accordingly, the Commission accepts the position of the Appellant and allows her appeal.

In her May 7, 2014 Form 2, the Appellant seeks the sum of \$120.53 for loss of use of her unit, representing a period of nine days.

Accordingly, the Commission awards the sum of \$120.53 to the Appellant for a return of rent based on loss of use.

The Commission agrees with the Director that the Appellant is also entitled to receive the security deposit plus interest in the amount of \$102.00.

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 Respondent (lessor) shall refund the sum of \$120.53 to the Appellant (lessee), said sum to be paid on or before May 22, 2015.**
3. **The Appellant (lessee) is entitled to receive the security deposit plus interest in the amount of \$102.00.**

DATED at Charlottetown, Prince Edward Island, this **21st** day of **April**, 2015.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Leonard Gallant)

Leonard Gallant, 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)