



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR17009  
Order LR17-07**

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Property Act by Kelsey Smith against Order LD17-126 dated May 12, 2017 issued by the Office of the Director of Residential Rental Property.

**BEFORE THE COMMISSION**  
on Tuesday, the 20th day of June, 2017.

John Broderick, Commissioner  
Jean Tingley, Commissioner

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# Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

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Commission Administrator  
Corporate Services and Appeals

**IN THE MATTER** of an appeal filed under Section 25 of the Rental of Residential Property Act by Kelsey Smith against Order LD17-126 dated May 12, 2017 issued by the Office of the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On June 1, 2017 the Commission received a Notice of Appeal from a lessee, Kelsey Smith (the “Appellant”), requesting an appeal of Order LD17-126 dated May 12, 2017 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on January 4, 2017 the Appellant filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking a finding that rent is owed; an order that an amount found to be owed be paid; and determination of proper rent rate.

The matter was heard by the Director on April 20, 2017 and in Order LD17-126 the Director ordered:

***“IT IS THEREFORE ORDERED THAT***

- 1. The lessee’s application for return of rent is not approved.*
- 2. The rent for the resident premises located at 75 Cumberland Street, Apartment 3 shall remain at \$650.00 per month until it is raised in accordance with the **Rental of Residential Property Act.**”*

The Commission heard the appeal on June 19, 2017. The Appellant was present. The lessor, Cecil Campbell (the “Respondent”) was also present.

## EVIDENCE

The Appellant filed a written submission and photographs in support of her appeal. She testified that the apartment contains two rooms plus a bathroom and thus was a one-bedroom apartment both before and after the appeal. She submitted that before the renovations a tenant could have placed living room furniture such as a couch in the kitchen, but instead decided to place such furniture in the bedroom. The Appellant submits that renovations alone do not automatically justify an increase in rent.

The Appellant requests that the monthly rent be returned to the initial amount of \$500.00 paid by the previous tenant. The Appellant also requests a return of nine months excess rent totalling \$1350.00.

The Respondent testified that the renovations took two months to complete, with the kitchen moved to a different room. He noted that a door was placed between the two rooms to make them accessible to each other without the need to go out into the hallway. He also noted that there was considerable plumbing and electrical work done as well as repainting.

The Respondent requests that Director's Order LD17-126 be upheld by the Commission.

## DECISION

The appeal is denied and Director's Order LD17-126 is upheld for the reasons that follow.

The Commission agrees with the Director that, contrary to industry belief, renovations to a unit do not automatically allow a lessor to raise rent between tenants.

The Commission also agrees with the findings of the Director that the renovations and changes in layout were sufficient to meet the threshold of defining the unit as a new apartment, and in such case the lessor is free to set the rent on such new unit.

Accordingly, the rent shall remain at \$650.00 per month. Any increase in this rent would require compliance with the *Rental of Residential Property Act* including the notice requirements specifically set out in section 22 of said Act.

**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. Director's Order LD17-126 is hereby confirmed.

**DATED** at Charlottetown, Prince Edward Island, this 20th day of June, 2017.

**BY THE COMMISSION:**

(sgd. John Broderick)

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John Broderick, Commissioner

(sgd. Jean Tingley)

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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)