



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18001
Order LR18-02**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act filed by Rita Jackson against
Order LD17-292 dated December 8, 2017
issued by the Director of Residential Rental
Property.

BEFORE THE COMMISSION
on Friday, the 26th day of January, 2018.

John Broderick, Commissioner
M. Douglas Clow, Vice-Chair
Jean Tingley, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan 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 Rita Jackson against Order LD17-292 dated December 8, 2017 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On January 2, 2018 the Commission received a Notice of Appeal from a lessor, Rita Jackson (the “Appellant”), requesting an appeal of Order LD17-292 dated December 8, 2017 issued by the Director of Residential Rental Property (the “Director”). At the time of filing the appeal, the Appellant paid to the Acting Director of Residential Rental Property the sum of \$687.40 representing the security deposit plus accrued interest.

By way of background, on October 20, 2016 a lessee, Donald Wood (the “Respondent”) filed a Form 2 - Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking remedy by way of a finding that the security deposit, or part thereof, should be forfeited or returned and an order that an amount found to be owed be paid.

On October 21, 2016, the Director of Residential Rental Property wrote to the Appellant to inform her of the requirements under Sections 10(4) and 10(5) of the **Rental of Residential Property Act** (the “Act”) and requesting a copy of the Form 8 – Notice of Intention to Retain Security Deposit be provided to her.

On October 20, 2017 the Acting Director of Residential Rental Property wrote to the Appellant to again request a copy of the Form 8 – Notice of Intention to Retain Security Deposit.

The matter was heard by the Director on December 5, 2017 and in Order LD17-292 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessor shall pay the sum of \$687.40 to the Acting Director of Residential Rental Property in trust for the lessee forthwith.*
- 2. Payment to the lessee shall be made after the appropriate appeal period has expired.”*

The Commission heard the appeal on January 25, 2018. The Appellant was present. James Rodd (“Mr. Rodd”) was present and testified on the Appellant’s behalf. The Respondent was also present.

EVIDENCE

The Appellant filed Exhibit E-18. The Appellant testified that when the tenancy started, the oil tank and propane tank were both full. She also testified that the Respondent gave her the propane delivery slip and she paid for the propane. She testified that the house was clean before the tenancy started.

Mr. Rodd testified that the house was clean before the Respondent took possession of the house.

The Respondent testified that he had paid to fill the oil tank. He acknowledged that he does owe money for propane but he does not know when the tank was filled or how much the propane cost.

DECISION

The Appellant never filed a Form 8 Notice of Intention to Retain Security Deposit. The onus is on a lessor to prove her claim and the Commission finds that the evidence before the Commission does not prove the Appellant's claim.

The Commission dismisses the appeal and confirms Director's Order LD17-292.

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 dismissed.
2. Director's Order LD17-292 is hereby confirmed.

DATED at Charlottetown, Prince Edward Island, this **26th** day of **January**, 2018.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(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)