



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18012
Order LR18-16**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act filed by Weiguang Yang against
Order LD18-135 dated April 18, 2018 issued by
the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Wednesday, the 6th day of June, 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 Weiguang Yang against Order LD18-135 dated April 18, 2018 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On April 30, 2018 the Commission received a Notice of Appeal from a lessor, Weiguang Yang (the “Appellant”), requesting an appeal of Order LD18-135 dated April 18, 2018 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on October 17, 2017 two lessees, Brittany Wagstaff and Nick Wagstaff (collectively the “Respondents”) filed a Form 9 – Application re Determination of Security Deposit. Attached to the application was a Form 8 – Notice of Intention to Retain Security Deposit signed by the Appellant and dated October 5, 2017.

On October 18, 2017, the Acting Director of Residential Rental Property wrote to the Appellant to inform him of the requirement under Section 10(9) of the **Rental of Residential Property Act** (the “Act”) and requesting that the security deposit plus interest be provided to her. On October 25, 2017 the Appellant provided the security deposit funds in the amount of \$305.15 to the Acting Director.

The matter was heard by the Director on April 12, 2018 and in Order LD18-135 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessees shall receive the security deposit funds in the amount of \$305.15 currently held in trust by the Office of the Director of Residential Rental Property.*
- 2. Payment to the lessees shall be made after the appropriate appeal period has expired.”*

The Commission heard the appeal on June 6, 2018. The Appellant was present at the hearing accompanied by Robert Thomas, who assisted the Appellant in making his presentation. The Respondents were also present at the hearing.

EVIDENCE

The Appellant described the condition of the premises before and after the tenancy and identified his concerns with respect to the cleanliness of the premises when the Respondents left.

The Respondents described the environmental condition of the premises. The Respondents testified that given this environmental condition, they did not want to touch these areas and thus they were not cleaned.

DECISION

The Commission denies the appeal for the reasons that follow.

Due to serious environmental conditions caused by well documented deficiencies with the premises, the Respondents would have further exposed themselves had they disturbed the affected areas by cleaning the premises before they vacated the residential premises.

The Commission agrees with the reasoning and findings of the Director in Order LD18-135.

Accordingly, the appeal is denied and Director's Order LD18-135 is confirmed in its entirety.

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 LD18-135 is confirmed in its entirety.**

DATED at Charlottetown, Prince Edward Island, this **6th** day of **June, 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)