



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR19021
Order LR19-15**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act (the "Act") filed by Weiwei (Alice) Yu against Order LD19-151 dated April 18, 2019 issued by the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Thursday, the 30th day of May, 2019.

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 filed under Section 25 of the Rental of Residential Property Act (the "Act") filed by Weiwei (Alice) Yu against Order LD19-151 dated April 18, 2019 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On May 3, 2019 the Commission received a Notice of Appeal from a lessor, Weiwei (Alice) Yu (the "Appellant"), requesting an appeal of Order LD19-151 dated April 18, 2019 issued by the Director of Residential Rental Property (the "Director").

By way of background, on March 29, 2019 a lessee, Courtney Picard (the "Respondent") filed with the Director a Form 2 - Application for Enforcement of Statutory or Other Conditions of Rental Agreement believing that a condition of the rental agreement had not been complied with and requested a return of rent in the amount of \$7,800 on the basis of an illegal rent increase.

The matter was heard by the Director on April 10, 2019 and in Order LD19-151 the Director ordered:

"IT IS THEREFORE ORDERED THAT

- 1. The lessor shall pay to the lessee the sum of \$7,800.00 on or before May 18, 2019.*
- 2. Payment shall occur after the expiry of the appropriate appeal period.*
- 3. The monthly rent for the residential premises located at 39 Rankin Court, Charlottetown, PE shall remain at \$800.00 until raised in accordance with the Act."*

The Commission heard the appeal on May 29, 2019. The Appellant was present, along with her husband Xiao Ning (Eric) Wang ("Mr. Wang") and the Appellant's real estate agent Cathy Burton ("Ms. Burton"). The Respondent was also present.

EVIDENCE

The Appellant testified that the Respondent agreed to pay \$1500.00 per month rent for 39 Rankin Court. The Appellant testified that 39 Rankin Court was vacant when she bought it and she feels that \$1500.00 per month is an appropriate amount for rent. The Appellant stated that she determined that \$1500.00 per month was reasonable after speaking with some international students.

Ms. Burton testified that the duplex of 35-39 Rankin Court is now up for sale.

Mr. Wang testified that he and the Appellant had no idea of what the previous rent was for 39 Rankin Court. Mr. Wang stated that the Respondent had agreed to \$1500.00 per month unheated but raised the issue of the previous rent eleven months after signing the agreement. Mr. Wang said he felt this was “planned” by someone else and this was “kind of cheating”. He denied that it was his fault.

The Respondent testified that she signed a rental agreement with the Appellant to rent 39 Rankin Court for \$1500.00 per month unheated. Several months after she signed the rental agreement she had spoken with prior tenants of 39 Rankin Court and found out the amount of rent they had been paying when they lived there. She then researched this matter, finding the online listing for 35-39 Rankin Court (Exhibit E-3) which stated that each side of the duplex rents for \$800.00 per month unheated. She brought this to the Appellant’s attention. She ultimately filed with the Director a Form 2 dated March 29, 2019 (Exhibit E-1) seeking a return of rent in the amount of \$7,800.00.

DECISION

The appeal is denied and Director’s Order LD-151 is confirmed.

Having reviewed Exhibits E-1 through E-15 and heard the testimony of the Appellant and her two witnesses as well as the Respondent, the Commission agrees with and adopts the findings and reasoning provided by the Director in Order LD-151.

Exhibit E-3, provided by the Respondent, and Exhibit E-8, provided by the Appellant, make it clear that each side of the duplex at 35-39 Rankin Court previously rented for no more than \$800.00 per month unheated. Both documents noted that the property was subject to rent control. According to Exhibit E-8 the Appellant purchased the duplex in September 2016.

The Form 1 Rental Agreement (Exhibit E-4) was made between the Appellant and Respondent on March 8, 2018 with the Agreement stated to commence on March 19, 2018. Rent was stated as \$1500.00 per month unheated.

In Prince Edward Island, the *Rental of Residential Property Act* (the “**Act**”) provides for a system of rent control whereby rent runs with the residential unit. When a lessee surrenders possession of that unit to the lessor, that rate of rent still remains fixed to that unit. This rent applies to a subsequent lessee even if the unit has been vacant between the tenancies. Any agreement as to the amount of rent reached between lessor and lessee is null and void to the extent that it runs contrary to the rent control provisions of the **Act**.

To balance out the rigours of rent control, Part IV of the **Act** sets out the process whereby rent increases may lawfully be made. If a lessor raises the rent of a unit without first following the process set out in Part IV of the **Act**, such an increase is illegal.

As there is no evidence that this rental increase was approved under Part IV of the **Act**, the Commission finds that the Appellant illegally increased the rent of 39 Rankin Court from \$800.00 per month to \$1500.00

Both the Appellant and Mr. Wang pleaded lack of knowledge as to the quantum of the previous rent and lack of familiarity as to the requirements of the **Act**. Mr. Wang's testimony appeared to deflect blame to others. Lack of familiarity of the **Act** does not in any way mitigate the requirements of the **Act**.

The Commission agrees with the Director that the Appellant (lessor) owes the Respondent (lessee) the sum of \$7,800.00 for return of rent.

Until such time as an increase in rent has been made in full compliance with Part IV of the **Act**, the rent for 39 Rankin Court is set at and shall remain at \$800.00 (unheated) per month.

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 LD19-151 is confirmed.**

DATED at Charlottetown, Prince Edward Island, this **30th** day of **May, 2019**.

BY THE COMMISSION:

(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.