



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR19024  
Order LR19-21**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act (the "Act") filed by Brenda  
Kellar-Parsons against Order LD19-166 dated  
April 30, 2019 issued by the Director of  
Residential Rental Property.

**BEFORE THE COMMISSION**

on Wednesday, the 19th day of June, 2019.

M. Douglas Clow, Vice-Chair  
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 under Section 25 of the Rental of Residential Property Act (the "Act") filed by Brenda Kellar-Parsons against Order LD19-166 dated April 30, 2019 issued by the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On May 22, 2019 the Commission received a Notice of Appeal from a lessor, Brenda Kellar-Parsons (the "Appellant"), requesting an appeal of Order LD19-166 dated April 30, 2019 issued by the Director of Residential Rental Property (the "Director").

By way of background:

- (a) On March 8, 2018 a lessee, Amanda MacDonald, on behalf of herself and her husband, Mark MacDonald (collectively the "Respondents") filed with the Director a Form 9 – Application re Determination of Security Deposit ("Form 9") to which was attached a Form 8 – Notice of Intention to Retain Security Deposit ("Form 8") dated the 7<sup>th</sup> (22<sup>nd</sup>) day of February, 2018 signed by the Appellant.
- (b) On March 9, 2018 the Director wrote to the Appellant enclosing a copy of the Form 9 and requesting that the Appellant forward the security deposit funds, plus interest, pursuant to Section 10.(9) of the **Act**.
- (c) On March 28, 2018 the Director received from the Appellant an amended Form 8 – Notice of Intention to Retain Security Deposit dated March 17, 2018 (the "Amended Form 8").
- (d) On March 28, 2018 the Director forwarded the Amended Form 8 to the Respondents and requested that they file an amended Form 9.
- (e) On April 18, 2018 the Director received from the Respondents an amended Form 9 – Application re Determination of Security Deposit dated April 13, 2018 (the "Amended Form 9").
- (f) On April 19, 2018 the Director wrote to the Appellant attaching a copy of the Amended Form 9 and requesting that the Appellant forward the security deposit funds, plus interest, pursuant to Section 10.(9) of the **Act**.
- (g) On May 10, 2018 the security deposit funds, plus interest, in the amount of \$1,486.85 were received by the Director from the Appellant.

The matter was heard by the Director on April 16, 2019 and in Order LD19-166 dated April 30, 2019 the Director ordered:

**“IT IS THEREFORE ORDERED THAT**

1. *The lessor shall receive \$462.11 from the security deposit funds held in trust by the Office of the Director of Residential Rental Property.*
2. *The lessees shall receive \$1,024.74 from the security deposit funds held in trust by the Office of the Director of Residential Rental Property.*
3. *Payment to the lessor and the lessees shall be made after the appropriate appeal period has expired.”*

The Commission heard the appeal on June 18, 2019. The Appellant was present. The Respondents were also present.

**EVIDENCE**

The Appellant submitted Exhibit E-23 which contains photographs taken on June 17, 2019, a floor layout for the premises, and three receipts from June 17, 2019 dealing with the steaming of sheers, the purchase of new curtain rod material and installation of these rods. The Appellant reviewed Director’s Order LD19-166 addressing claims that she feels the Director should have allowed. The Appellant provided testimony on the circumstances giving rise to the application before the Director and the present appeal.

The Respondents provided testimony on the circumstances of the matter before the Director giving rise to this appeal. They testified that they had taken down the sheers as they needed to be washed and the existing curtain rods had developed some rust. They had their cleaner wash the curtains, but chose not to steam them as they decided not to put them back. They then carefully stored them.

The Respondents further testified that, when they were vacating the premises in January 2018, they offered, in the presence of the Appellant and the new tenant, to re-install the curtain rods and sheers. They testified that the new tenant did not want the curtain rods and sheers to be re-installed and the Appellant was present and aware of the new tenant’s choice.

The Respondents stated that they were satisfied with the resolution set out in the Director’s Order.

**DECISION**

The appeal is denied and Director’s Order LD19-166 is confirmed.

The Commission has reviewed the large volume of documentation and considered the testimony of the parties. The Commission agrees with and adopts the findings of facts, reasoning and outcome set out in Director’s Order LD19-166.

With respect to Exhibit E-23 which was not before the Director, the Appellant has attempted to further extend her claim with respect to curtain rods and sheers based on supporting evidence obtained, and funds apparently expended, over 16 months after the end of the tenancy. These additional sums were not itemized in the Form 8 filed by the Appellant and the Commission denies this extended claim.

**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 LD19-166 is confirmed.**

**DATED** at Charlottetown, Prince Edward Island, this **19th** day of **June, 2019**.

**BY THE COMMISSION:**

(sgd. M. Douglas Clow)

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M. Douglas Clow, Vice-Chair

(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.*