



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR19066  
Order LR20-07**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act filed by Steven Brown against  
Order LD19-476 dated October 31, 2019  
issued by the Director of Residential Rental  
Property.

**BEFORE THE COMMISSION**  
on Wednesday, the 26th day of February,  
2020.

Erin T. Mitchell, Commissioner  
M. Douglas Clow, Vice-Chair  
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 filed by Steven Brown against Order LD19-476 dated October 31, 2019 issued by the Director of Residential Rental Property.

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# Order

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## BACKGROUND

On November 8, 2019 the Commission received a Notice of Appeal from a lessor, Steven Brown (the “Appellant”), requesting an appeal of Order LD19-476 dated October 31, 2019 issued by the Director of Residential Rental Property (the “Director”).

By way of background, on July 4, 2019 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 and an order that an amount found to be owed be paid.

The matter was heard by the Director on October 28, 2019 and in Order LD19-476 the Director ordered:

***“IT IS THEREFORE ORDERED THAT***

1. *The lessee shall pay to the lessor the sum of \$1,400.00 on or before November 29, 2019.”*

The Commission heard the appeal on February 24, 2020. The Appellant was present and was accompanied by Ann Doucette (“Ms. Doucette”). The Respondent was not present.

The Commission is satisfied that both the Respondent and his representative Kim Grant were fully informed of the date, time and location of the hearing.

## EVIDENCE

The Appellant testified that he received funds in April 2017 for either the first month’s rent or the security deposit, but not both. He testified that he was in Prince Edward Island from March 1 to 19, 2017 as evidenced by his driver’s log and other documents contained in Exhibit E-14.

Ms. Doucette testified that she had not received payment from the Respondent during the month of March 2017 and referred to a January 13, 2020 written statement she and her husband Brian Trainor signed contained in Exhibit E-14.

## DECISION

The appeal is allowed and Director's Order LD19-476 is hereby varied.

Exhibit E-2, the Form 1 Standard Form of Rental Agreement dated April 26, 2017, states that the tenancy commenced April 1, 2017, established rent at \$800.00 per month and required a security deposit of \$800.00.

The Director had accepted the testimony of the Respondent and an unsigned and undated document offered in support. The Director found that the Respondent had paid \$1600.00 in cash to Ms. Doucette on March 15, 2017.

Ms. Doucette testified before the Commission that she did not receive any payment from the Respondent during the month of March 2017. A dated and signed written statement was also filed with the Commission to support this testimony.

The Respondent did not file witness statements to support his earlier testimony before the Director. The Respondent was not present to refute Ms. Doucette's testimony and written statement.

The Appellant acknowledged that he did receive funds in April 2017 which could be considered either the first month's rent, or the security deposit, but not both.

The Director ordered that the Respondent pay the Appellant the sum of \$1400.00. Based on the testimony of Ms. Doucette, the testimony of the Appellant and the documentation contained in Exhibit E-14, the Commission adds the sum of \$800.00 for a total of \$2200.00 to be paid by the Respondent to the Appellant.

The Commission also varies the Director's Order to provide the Respondent an opportunity to satisfy the varied Order.

**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 allowed.
2. Director's Order LD19-476 is varied to read:

***The lessee [Respondent] shall pay to the lessor [Appellant] the sum of \$2,200.00 on or before March 31, 2020.***

**DATED** at Charlottetown, Prince Edward Island, this **26th** day of **February**, **2020**.

**BY THE COMMISSION:**

(sgd. Erin T. Mitchell)

Erin T. Mitchell, 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.*