



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Dockets LR20008
Order LR20-14**

IN THE MATTER of an appeal filed
under Section 25 of the Rental of Residential
Property Act by Troy Longaphie and Glenda
Longaphie against Order LD20-057 dated
February 18, 2020 issued by the Office of the
Director of Residential Rental Property.

BEFORE THE COMMISSION
on Tuesday, the 23rd day of June, 2020.

Erin T. Mitchell, Commissioner
M. Douglas Clow, Vice-Chair

Order

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Philip J. Rafuse,
Appeals Administrator
Island Regulatory & Appeals Commission

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Troy Longaphie and Glenda Longaphie against Order LD20-057 dated February 18, 2020 issued by the Office of the Director of Residential Rental Property.

Order

BACKGROUND

On March 11, 2020 the Commission received a Notice of Appeal from lessors Troy Longaphie and Glenda Longaphie (the “Appellants”), requesting an appeal of Order LD20-057 dated February 18, 2020 issued by the Director of Residential Rental Property (the “Director”).

The matter was heard by the Director on February 14, 2020 and in Order LD20-057 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessors shall receive the security deposit funds in the amount of \$402.50 currently held in trust by the Office of the Director of Residential Rental Property.*
- 2. The lessee shall receive the balance of the security deposit funds in the amount of \$1,144.30 currently held in trust by the Office of the Director of Residential Rental Property.*
- 3. The lessors shall pay to the lessee the sum of \$1,241.60.*
- 4. Payment to the parties shall be made following the expiration of the appropriate appeal period.”*

The hearing of this appeal was delayed due to the closure of the Commission offices due to the COVID-19 pandemic.

The Commission heard the appeal on June 23, 2020 by way of telephone conference in order to meet current social distancing requirements. The Appellant Troy Longaphie (“Mr. Longaphie”) participated by telephone. The Respondent Blair Snow (“Mr. Snow”) also participated by telephone.

EVIDENCE

Mr. Longaphie testified that the relocation of the sconces left holes in the plaster of the bedroom wall. The holes became quite large once the wall anchors were removed. The wallpaper was vintage, could not be matched and thus it had to be removed and the wall repainted. The crown molding also had to be removed. The total cost of the repair work was \$891.25. Mr. Longaphie maintained that this was not normal wear and tear.

Mr. Snow testified that the sconces were fastened to the wall but were plugged into wall electrical outlets rather than hard-wired. He stated that one of the two sconces needed an extension cord to reach the wall electrical outlet. He testified that the holes were small and could have been patched without removing the wallpaper. He submitted that the holes were normal wear and tear rather than willful damage. He testified that he relocated the sconces because the location was poor for his furnishings. He stated that he agrees with the decision in Director's Order LD20-057.

DECISION

The appeal is denied and Director's Order LD20-057 is confirmed.

The Commission agrees with the Director's finding that the holes left by the relocation of the sconces is consistent with ordinary wear and tear.

The Commission also notes that the February 13, 2017 Form 1 Standard Form Rental Agreement (Exhibit E-3, pages 3 to 8) includes a listing of additional terms (page 8 of the file materials) but makes no mention or prohibition of holes used to hang items such as pictures, shelves, or in this case, sconces.

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 LD20-057 is confirmed.

DATED at Charlottetown, Prince Edward Island, this **23rd day of June, 2020**.

BY THE COMMISSION:

(sgd.) *Erin T. Mitchell*

Erin T. Mitchell, Commissioner

(sgd.) *M. Douglas Clow*

M. Douglas Clow, Vice-Chair

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.