



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**
Prince Edward Island
Île-du-Prince-Édouard
CANADA

Docket: LR21008
Order: LR21-12

IN THE MATTER of an appeal, under subsections 25(2) and 26(1) of the *Rental of Residential Property Act* (the "Act"), filed by Christopher Higgins, against Order LD21-073 issued by the Director of Residential Rental Property and dated March 4, 2021.

BEFORE THE COMMISSION ON Thursday, April 22, 2021.

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

Compared and Certified a True
Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

ORDER

This appeal asks the question of whether a landlord must return rent to a tenant.

BACKGROUND

The Appellant, Christopher Higgins (“Mr. Higgins”), rented a room to the Respondent, Mike Nantau (“Mr. Nantau”), located at 3 MacArthur Drive, Charlottetown, PE (the “Premises”). Mr. Nantau moved into the Premises in late November 2020 and paid rent for the month of December 2020 in the amount of \$800. Mr. Nantau vacated the Premises on December 2, 2020.

On December 14, 2020, Mr. Nantau filed with the Office of the Director of Residential Rental Property (the “Director”) an Application for Enforcement of Statutory and Other Conditions of Rental Agreement (the “Form 2”) seeking a return of rent in the amount of \$800.

The Director heard the matter on January 29, 2021, and in Order LD21-073 dated March 4, 2021, ordered Mr. Higgins pay Mr. Nantau the sum of \$774.19 by March 19, 2021.

Mr. Higgins appealed.

The Commission heard the appeal on April 21, 2021, by way of telephone conference call. Mr. Higgins participated by telephone. Adam MacKay (“Mr. MacKay”) and Jessica MacPherson (“Ms. MacPherson”) represented Mr. Nantau and participated by telephone.

Disposition

The appeal is denied.

The Issue

The Commission will consider whether the Appellant landlord is entitled to retain rent for the entire month of December 2020.

Analysis

The parties entered into a written, fixed-term rental agreement for the period December 1, 2020 to December 1, 2021. The Premises consist of a room in a single-family home. The Respondent tenant moved into the Premises on or about December 1, 2020, and moved out on December 2, 2020, after an incident.

Both the Appellant and the Respondent’s representatives testified in considerable detail with respect to the incident.

The Appellant seeks to retain all rent for the month of December 2020 in the amount of \$800.

The Commission, having heard the oral evidence of both parties and having reviewed all documentation on file, determines that there is no new evidence to disturb the findings of the Director in Order LD21-073.

Accordingly, the Commission orders the Appellant to pay the sum of \$774.19 set out in Order LD21-073 not later than April 29, 2021.

At the hearing before the Commission, the Appellant stated that he intended to appeal Order LD21-072, which pertained to the security deposit. The Appellant acknowledged to the Commission that he failed to appeal said Order and that said failure to appeal was his own error.

The Appellant also acknowledged to the Commission that he agrees to return the security deposit with interest to the Respondent as ordered under Order LD21-072. The Commission therefore expects that this amount shall be paid in full not later than April 29, 2021.

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 dismissed.**
2. **Order LD21-073 is confirmed, subject to a revised payment deadline of April 29, 2021.**

DATED at Charlottetown, Prince Edward Island, Thursday, April 22, 2021.

BY THE COMMISSION:

(Sgd. Erin T. Mitchell)

Panel Chair - Erin T. Mitchell, Commissioner

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

NOTICE

Subsections 26(2), 26(3), 26(4) and 26(5) of the *Rental of Residential Property Act* provides 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.