



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

Docket: LR21010
Order: LR21-13

IN THE MATTER of an appeal under subsections 25(2) and 26(1) of the *Rental of Residential Property Act* (the "Act"), filed by Ryan Abdallah against Order LD21-089 issued by the Director of Residential Rental Property and dated March 12, 2021.

BEFORE THE COMMISSION ON Wednesday, April 28, 2021.

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

Hearing Date: Tuesday, April 27, 2021

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(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

ORDER

This appeal asks whether a landlord is permitted to retain all, or a portion, of a tenant's security deposit.

BACKGROUND

1. The Appellant, Ryan Abdallah ("Mr. Abdallah"), entered into a rental agreement with the Respondents, Joanne Power ("Ms. Power") and Roland Rivard ("Mr. Rivard") (collectively the "Tenants"), for the premises located at 54 McGill Drive, Charlottetown, PE (the "Premises") on February 1, 2018. Rent in the amount of \$1,300 was due on the first day of the month. A security deposit of \$1,800 was required and paid.
2. On February 9, 2021, Mr. Abdallah e-mailed to the Tenants a Notice to Retain Security Deposit (the "Form 8").
3. On February 12, 2021, Ms. Power filed with the Director of Residential Rental Property (the "Director") a Form 9 – Application re Determination of Security Deposit ("Form 9").
4. On February 26, 2021, the Director received the security deposit funds from Mr. Abdallah in the amount of \$1,856.
5. The Director heard the matter on March 12, 2021, and in Order LD21-089 ordered that the Tenants receive \$1,010.71 of the security deposit funds and Mr. Abdallah receive the balance in the amount of \$845.89.
6. Mr. Abdallah appealed.
7. The matter was heard by the Commission on April 27, 2021, by way of telephone conference call with the parties.

DISPOSITION

The appeal is denied.

THE ISSUE

The Commission will consider whether the Appellant landlord is entitled to receive all of, or a greater portion of, the security deposit.

ANALYSIS

The parties entered into a written, fixed-term rental agreement for the period February 1, 2018 to February 1, 2019. At the end of the fixed term, the agreement continued on a month-to-month basis. The Premises is a single-family home. The Respondents moved into the Premises on or about February 1, 2018, and fully moved out of the premises on February 1, 2021.

Both parties testified as to the cost of alleged damage to the Premises and the disposal of contents. The Appellant filed invoices for repairs performed during the month of March 2021. The Respondents disputed the amounts and filed estimates in an effort to establish that the cost of repair should have been significantly lower. The Appellant filed an invoice for the cost of disposal and the Respondents filed information to contend that this cost should have been unnecessary or in the very least, significantly lower.

Effectively, the Appellant is seeking to claim for expenses to repair damage which were rejected by the Director due to a lack of evidence. Thus, the Appellant is seeking a larger award for damage. The Respondents on the other hand are seeking to reduce the award made by the Director to the Appellant on the basis that the disposal costs were unnecessary, or significantly overstated, and that the property had been in need of repairs since early in their tenancy.

In Order LR21-04, the Commission considered the nature of an appeal to the Commission under the Rental of Residential Property Act (the “Act”):

Nature of the Appeal

Subsection 26(1) of the Rental of Residential Property Act states that:

[a]n appeal to the Commission shall be by way of a re-hearing, and the Commission may receive and accept such evidence and information on oath or affidavit as in its discretion it considers fit and make such decision or order as the Director is authorized to make under this Act.

In the present case both parties have provided conflicting evidence as to what the true cost of repairs and disposal costs ought to have been. Against this dispute is a backdrop where the rental agreement was terminated by the Appellant on the basis of planned substantial renovations.

The Commission has considered to the new evidence filed by both parties and determines that there is no new and reliable evidence before the Commission sufficient to disturb the findings of the Director in Order LD21-089.

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 LD21-089 is confirmed.**

DATED at Charlottetown, Prince Edward Island, Wednesday, April 28, 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.