



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

Docket: LR21012
Order: LR21-14

IN THE MATTER of an appeal under subsections 25(2) and 26(1) of the *Rental of Residential Property Act* (the "Act"), filed by Joanne Power and Roland Rivard, against Order LD21-090 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

Compared and Certified a True
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(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

ORDER

This appeal asks whether a landlord is required to return rent to a tenant.

BACKGROUND

1. The Appellants, Joanne Power (“Ms. Power”) and Roland Rivard (“Mr. Rivard”) (collectively the “Tenants”), entered into a rental agreement with the Respondent, Ryan Abdallah (“Mr. Abdallah”), 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 4, 2021, Ms. Power filed with the Director of Residential Rental Property (the “Director”) a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement (the “Form 2”) seeking a return of rent.
3. The Director heard the matter on March 12, 2021, and in Order LD21-090 ordered that Mr. Abdallah pay the Tenants the amount of \$60 by April 6, 2021.
4. Ms. Power appealed.
5. 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 landlord must return rent to the tenants.

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.

The Appellants seek a return of rent of \$150 as they did not have a functional washing machine from January 13, 2021 to February 1, 2021. The Appellants seek a return of rent of \$31,000 based on an allegation that they had to live with mold in the Premises for 27 months.

With respect to the matter of the washing machine, the Commission finds that the Director’s award of \$60 was reasonable, given the short period of time that the Appellants were left without a working washing machine.

With respect to the matter of return of rent for “mold”, the Commission is mindful that the Appellants only contacted Environmental Health in the final month of their tenancy. There is no evidence that the Appellants were displaced from their home due to water leaks or mold during the three-year tenancy.

The Director and the Commission are limited in the scope of their authority by the *Rental of Residential Property Act*. Neither the Commission nor the Director has the jurisdiction to award non-pecuniary damages such as pain, suffering, loss of enjoyment, and/or hardship. The Appellants have to pursue claims in another forum.

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. Order LD21-090 is confirmed.

DATED at Charlottetown, Prince Edward Island,.

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.