



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

Docket: LR21011
Order: LR21-15

IN THE MATTER of an appeal, under subsections 25(2) and 26(1) of the *Rental of Residential Property Act* (the "*Act*"), filed by Larry Stewart, against Order LD21-111 issued by the Director of Residential Rental Property and dated March 26, 2021

BEFORE THE COMMISSION ON Wednesday, April 28, 2021.

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

Hearing Date: Wednesday, April 28, 2021

Compared and Certified a True
Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

ORDER

This appeal asks whether a tenant owes rent to a landlord.

Background

1. The Appellant, Larry Stewart (“Mr. Stewart”), entered into a rental agreement with the Respondents, Hiba Shareef (“Dr. Shareef”) and Maysar Hassan (“Mr. Hassan”), for the premises located at 222 C Stratford Road, Stratford, PE (the “Premises”) on May 1, 2018. Rent in the amount of \$1,500 was due on the first day of the month.
2. On November 4, 2020, Mr. Stewart 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 rent owing in the amount of \$1,500.
3. The Director heard the matter on March 5, 2021, and in Order LD21-111 denied the application.
4. Mr. Stewart appealed.
5. The matter was heard by the Commission on April 28, 2021, by way of telephone conference call with the parties.

Disposition

The appeal is allowed and Director’s Order LD21-111 is reversed.

The Issue

The Commission will consider whether the tenants owe rent to the landlord.

Analysis

Mr. Stewart testified that, though he normally deposits rent cheques within a week of receipt, in this instance he found the cheque for the July 2020 rent payment stuck in his deposit book in October. Upon discovering it, he attempted to deposit it in October 2020.

Exhibit E-6, found on page 11 of the documentary record, provides objective evidence that the July 1, 2020 cheque in the amount of \$1,500 paid from one of the Respondents to the Appellant had payment stopped on October 8, 2020. No transfer of funds occurred.

The Respondent testified that they had moved out of the premises in September 2020 and were seeking a return of their security deposit. The Respondents stated that they were not aware that July 2020 rent had not been paid.

The Commission notes that the Respondents did not file any objective evidence to dispute Exhibit E-6, or to establish that funds for July rent were, in fact, transferred to the Appellant.

The Commission finds that Exhibit E-6 establishes that the rent for July 2020 was never paid. Therefore, in accordance with subsection 8(d.1) of the *Act*, the Commission finds that the Respondents owe the sum of \$1,500 to the Appellant. This sum of \$1,500 shall be paid on or before May 27, 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 allowed and Order LD21-111 is reversed.**
2. **The Respondents, Hiba Shareef and Maysar Hassan, shall pay the sum of \$1,500 to the Appellant Larry Stewart on or before May 27, 2021.**

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.