



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

Docket: LR21017
Order: LR21-19

IN THE MATTER of an appeal, under Section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Ryan Reid, against Order LD21-177 issued by the Director of Residential Rental Property and dated May 14, 2021.

BEFORE THE COMMISSION ON Monday,
June 7, 2021.

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

Hearing Date: Monday, June 7, 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 tenant owes additional rent to a landlord.

Background

1. The Appellant, Ryan Reid (“Mr. Reid”), entered into a rental agreement with the Respondent, Julie Ann Gallant (“Ms. Gallant”), for the premises located at 226 First Street, Unit 12, Summerside, PEI (the “Premises”) in February 2020. Rent in the amount of \$800 was due on the first day of the month.
2. On April 30, 2021, Mr. Reid filed with the Director of Residential Rental Property (the “Director”) a Form 2 – Application for Enforcement of Statutory or Other Conditions seeking rent owing in the amount of \$3,540. Attached to the Form 2 was a Form 4 - Notice of Termination by Lessor of Rental Agreement signed by Mr. Reid and dated April 9, 2021 (the “Form 4”).
3. The Director heard the matter on May 13, 2021, and in Order LD21-177 ordered that Ms. Gallant pay Mr. Reid the sum of \$2,126.03 on or before June 21, 2021.
4. Mr. Reid appealed.
5. The matter was heard by the Commission on June 7, 2021, by way of telephone conference call. Mr. Reid participated. Ms. Gallant did not participate. The Commission is satisfied that Ms. Gallant was fully informed of the date, time and procedure for participating in the appeal.

Disposition

The appeal is denied and Director’s Order LD21-177 is confirmed.

The Issue

The Commission will consider whether the landlord has established that the tenant owes a larger sum of rent than what was identified by the Director in Order LD21-177.

Analysis

Director’s Order LD21-177 ordered Ms. Gallant to pay the sum of \$2,126.03 to Mr. Reid as Ms. Gallant admitted to owing rent for March, April and May 2021. With respect to Mr. Reid’s claim for December 2020 to February 2021 inclusive, the Director went on to state:

The Landlord did not submit a rent ledger into evidence in support of its claim and, in the absence of such evidence, the Officer is unable to determine how much rent, if any, is outstanding for the months of December 2020 to February 2021. As such, the Officer finds that the Landlord has failed to establish its claim for rent owed for those months on a balance of probabilities.

In his May 19, 2021 Notice of Appeal, Mr. Reid stated the following reason for his appeal:

The amount she has to pay back is not the right amount that she owes, she has owed money before.

On May 25, 2021 Commission staff advised, via emailed letters, both parties of the date, time and procedure for participating in the appeal as well as the procedure and deadline for filing additional evidence. The letter to Mr. Reid included the following direction with respect to filing new evidence:

SUBMISSION OF NEW EVIDENCE AND DEADLINE

Under Section 26 of the Rental of Residential Property Act, an 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. Therefore, you are permitted to submit additional evidence at the appeal hearing.

*Should you have any additional evidence it may be submitted electronically to the undersigned at sdjefferson@irac.pe.ca, no later than **Wednesday, June 2, 2021 at 12:00 noon**. All evidence received by the deadline will be copied and provided to the Commissioners and the other party named in the appeal. Evidence received after the deadline will not be considered, except at the Commission's discretion, or by consent of the opposing party. **Do not miss your evidence submission deadline.***

Where there is a dispute as to how much rent is owing, the onus rests on the landlord to establish the claimed amount. The landlord is, or ought to be, in possession of business records that would provide an evidentiary basis for supporting such claim.

In spite of the fact that the Director, in Order LD21-177, noted the absence of a rent ledger and the Commission, on appeal, provided a clear direction on how to file new evidence, Mr. Reid failed to provide any documentary evidence to support his appeal.

The Commission finds that Mr. Reid has failed to establish that Ms. Gallant owes a larger sum of rent than what was identified by the Director in Order LD21-177 and accordingly, his appeal is denied.

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 LD21-177 is confirmed.**

DATED at Charlottetown, Prince Edward Island, Monday, June 7, 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.