



**Docket: LR21023**  
**Order: LR21-26**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Stephanie White, against Order LR21-210 issued by the Director of Residential Rental Property, dated June 14, 2021.

**BEFORE THE COMMISSION ON** Friday, July 23, 2021.

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

Hearing Date: Thursday, July 22, 2021

---



# ORDER

This appeal asks the question of whether the Director erred in disallowing a claim for return of rent.

## **BACKGROUND**

Stephanie White (“Ms. White”) currently rents an apartment in a 12-unit building located at 20 Spring Lane, Charlottetown, PE, from a landlord, CAPREIT. Rent for the apartment is \$1,164.95 per month.

On April 136, 2021, Ms. White filed with the Director of Residential Rental Property (the “Director”) an application seeking a return of rent in the amount of \$8,677.50. She claimed that the landlord had failed to enforce its no-smoking policy, which interfered with her tenancy.

In Order LD21-218 dated June 14, 2021, the Director dismissed the application.

Ms. White appealed.

The Commission heard the appeal on July 22, 2021, by way of telephone conference call. Ms. White participated along with her witness Sydney Dingwell. CAPREIT was represented by John O'Brien, Crystal Hosannah and Lisa Devan.

## **Disposition**

The appeal is denied.

## **The Issue**

Is there sufficient reason to award the tenant a return of rent?

## **Analysis**

In this appeal, Ms. White alleges a loss of quiet enjoyment due to the presence of cigarette smoke in the common areas and in her unit. Ms. White emphasized that the apartment building has a non-smoking policy. She advised the Commission that she is allergic to cigarette smoke and rented her apartment on the basis of it being in a building with a strict non-smoking policy. She advised the Commission of her numerous complaints to CAPREIT and she maintains that these concerns were not adequately addressed.

CAPREIT’s representatives set out the steps they took over the past year to investigate and address the matter.

A return of rent is an extraordinary remedy. While the Commission believes Ms. White to be sincere in her concerns, the Commission agrees with the Director that CAPREIT has taken reasonable steps to investigate and address Ms. White’s complaints and enforce the non-smoking policy for the apartment building.

Accordingly, the 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**

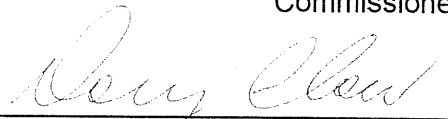
1. The appeal is denied.
2. Director's Order LD21-218 is confirmed.

**DATED** at Charlottetown, Prince Edward Island, Friday, July 23, 2021.

**BY THE COMMISSION:**



Panel Chair - Erin T. Mitchell,  
Commissioner



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.