



**Docket: LR21030**  
**Order: LR21-33**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act* (the "Act"), filed by Islandvale Inc. against Order LD21-267 issued by the Director of Residential Rental Property, dated July 19, 2021.

**BEFORE THE COMMISSION ON** Monday,  
August 30, 2021.

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

Hearing Date: Thursday, August 26, 2021

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# ORDER

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(Sgd.) Susan Jefferson  
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Commission Administrator  
Corporate Services and Appeals

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

## **BACKGROUND**

Islandvale Inc. (“Islandvale”) rented an apartment at 554 Malpeque Road, Charlottetown, PE (the “Premises”), to Vincent Brazil (“Mr. Brazil”). Rent for the apartment was \$1,100 per month with rent due on the first day of the month.

On May 20, 2021, Mr. Brazil filed with the Director of Residential Rental Property (the “Director”) an application seeking a return of rent in the amount of \$2,541 (the “Form 2”). He claimed that Islandvale had breached Statutory Condition 6.1 of the *Rental of Residential Property Act* regarding its obligation to keep the Premises in a good state of repair and fit for habitation during the tenancy.

In Order LD21-267 dated July 19, 2021, the Director allowed the application in part and ordered Islandvale to pay Mr. Brazil the amount of \$2,178 on or before August 19, 2021.

Islandvale Inc. appealed.

The Commission heard the appeal on August 26, 2021, by way of telephone conference call. Islandvale was represented by Wendell Huang and Ian Huang. Mr. Brazil appeared on his own behalf.

## **Disposition**

The appeal is denied.

## **The Issue**

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

## **Analysis**

No new evidence was provided by Islandvale which would warrant interfering with the findings of the Director in Order LD21-267.

The Commission takes note that a return of rent is an extraordinary remedy under the Act. Given the extended time periods involved and the impact on Mr. Brazil, the Commission finds that a partial return of rent in the amount calculated by the Director was appropriate.

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 LD21-267 is confirmed.**

**DATED** at Charlottetown, Prince Edward Island, on Monday, August 30, 2021.

**BY THE COMMISSION:**

**(sgd. Erin T. Mitchell)**

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Panel Chair - Erin T. Mitchell,  
Commissioner

**(sgd. M. Douglas Clow)**

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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.