



**Docket: LR21036**

**Order: LR21-36**

**IN THE MATTER** of an appeal under section 25 of the *Rental of Residential Property Act*, by Billie Jean Richard, against Order LD21-307 issued by the Director of Residential Rental Property and dated August 17, 2021.

**BEFORE THE COMMISSION ON** Friday, September 10, 2021.

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

HEARING DATE: Friday, September 10, 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 disallowing a claim for return of rent.

## **BACKGROUND**

Billie Jean Richard (“Ms. Richard”) rented premises located at 24 Seven Mile Bay Road, Albany, PE (the “Premises”), from Angela Bottos (“Ms. Bottos”) commencing March 1, 2021. Rent in the amount of \$1,200 was due on the first day of the month and included various services, two of which were water and snow removal.

On July 15, 2021, Ms. Richard filed with the Director of Residential Rental Property (the “Director”) an application requesting a return of rent in the amount of \$7,200 and an additional \$7,200 as compensation for her living conditions. Ms. Richard claimed that the condition of the Premises was unfit for habitation.

In Order LD21-307 dated August 17, 2021, the Director disallowed Ms. Richard’s application.

Ms. Richard appealed.

Ms. Richard had initially also appealed Director’s Order LD21-308, but at the hearing of this matter advised that she had vacated the premises and would not be pursuing her appeal of that order. The only matter for the Commission to consider on this appeal is the return of rent application.

The Commission heard the appeal on September 10, 2021. Ms. Richard and Ms. Bottos appeared by way of telephone conference call.

## **Disposition**

The appeal is denied and Order LD21-307 is confirmed.

## **The Issue**

Did the Director err in Order LD21-307 in dismissing the return of rent application?

## **Analysis**

In matters under the *Rental of Residential Property Act*, the onus generally rests on the party alleging a breach of a statutory condition to furnish evidence to support their allegations. The Commission finds that this is particularly true when a tenant seeks a return of rent, as a return of rent is an extraordinary remedy. A return of rent is normally given only where there is compelling objective evidence in support of the application.

Ms. Richard and Ms. Bottos provided testimony to the Commission and referred to documentary evidence that was previously considered by the Director. There was no new evidence presented to the Commission which would warrant disturbing the findings of the Director in Order LD21-307.

**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 of Director's Order LD21-308 has been withdrawn.**
2. **The appeal of Director's Order LD21-307 is denied and said Order is confirmed.**

**DATED** at Charlottetown, Prince Edward Island, Friday, September 10, 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.