



Docket: LR21054

Order: LR21-54

IN THE MATTER of an appeal under section 25 of the *Rental of Residential Property Act* (the "Act") filed by Haili Zhao, against Order LD21-443 issued by the Director of Residential Rental Property and dated November 22, 2021.

BEFORE THE COMMISSION ON Tuesday, December 7, 2021.

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

Hearing Date: Monday, December 6, 2021

ORDER

Compared and Certified a True
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(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

This appeal asks whether a landlord is permitted to retain the balance of a security deposit.

BACKGROUND

A landlord, Weymouth Properties Ltd. (the “Landlord”), rented premises located at 79 Ducks Landing, Apartment #5, Stratford, PE (the “Premises”), to Haili Zhao (“Ms. Zhao”) commencing on October 1, 2019. Rent was \$863 per month due on the first day of the month. A security deposit in the amount of \$863 was required and paid.

Ms. Zhao vacated the Premises on August 31, 2021.

On September 21, 2021, Ms. Zhao filed with the Director of Residential Rental Property (the “Director”) an Application Re Determination of Security Deposit (“Form 9”). Included with the Form 9 was a Notice of Intention to Retain Security Deposit (“Form 8”) dated September 8, 2021. Ms. Zhao is disputing the retention by the Landlord of \$180 representing extra cleaning of the Premises after Ms. Zhao’s departure.

In Order LD21-443, the Director ordered that the security deposit in the amount of \$180 be paid to the Landlord.

Ms. Zhao appealed.

The Commission heard the appeal on December 6, 2021. Ms. Zhao appeared by way of telephone conference call and was assisted by a translator, William Li (“Mr. Li”). The Landlord’s representative, Jessica Xu (“Ms. Xu”) also appeared by way of telephone conference call.

Disposition

The appeal is denied and Director’s Order LD21-443 is confirmed.

The Issue

Did the Director err in finding that the balance of the security deposit be returned to the Landlord?

Analysis

Section 6, Statutory Condition 4 of the *Act* reads:

4. Obligation of the Lessee

The lessee shall be responsible for the ordinary cleanliness of the interior of the premises and for the repair of damage caused by any wilful or negligent act of the lessee or of any person whom the lessee permits on the premises, but not for damage caused by normal wear and tear.

[Emphasis added]

It is noteworthy that the *Act* specifies a standard of “ordinary cleanliness”, which provides guidance for the Director and guidance for the Commission on appeal.

The Commission reviewed all the documentary evidence and heard from Ms. Zhao, Mr. Li and Ms. Xu. The Commission finds that there is no new evidence to warrant disturbing the findings of the Director.

Accordingly, the appeal is denied and Director's Order LD21-443 is confirmed.

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 LD21-443 is confirmed.**

DATED at Charlottetown, Prince Edward Island, Tuesday, December 7, 2021.

BY THE COMMISSION:

(sgd. Erin T. Mitchell)

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* provide 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.