



Docket: LR22013

Order: LR22-12

IN THE MATTER of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Michel Al-Mayaleh against Order LD22-050 issued by the Director of Residential Rental Property and dated February 28, 2022.

BEFORE THE COMMISSION ON Wednesday,
March 23, 2022

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

Hearing Date: Tuesday, March 22, 2022

ORDER

Compared and Certified a True
Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

This appeal asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) properly determined the amount of a return of rent to a tenant.

Background

The Appellant, Michel Al-Mayaleh (“Mr. Al-Mayaleh”), entered into a written month-to-month rental agreement with the Respondents, Paula Flanagan (“Ms. Flanagan”) and Craig Hughes (“Mr. Hughes”), for the premises located at 1 – 19 Hillsborough Street, Charlottetown, PE (the “Premises”) on July 1, 2015. Rent in the amount of \$1,086.76 is due on the first day of the month.

On January 4, 2022, Ms. Flanagan and Mr. Hughes filed an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (the “Form 2”) against Mr. Al-Mayaleh seeking a finding that rent is owed and an order than an amount found to be owed be paid.

The Form 2 application was heard by the Director on February 24, 2022, and the matter was decided in Order LD22-050 dated February 28, 2022.

The Director found that the rent for the Premises had been increased over the course of the tenancy without authorization from the Commission as is required in subsection 23(3) of the *Act*, and awarded Ms. Flanagan and Mr. Hughes \$3,999.36, payable by Mr. Al-Mayaleh for unauthorized rent increases.

In the same order, the Director ordered that the monthly rent for the Premises is \$965.00 and that it would remain so until rent was increased in accordance with the provisions of the *Act*.

The Appellant appealed.

The matter was heard by the Commission on March 22, 2022. Mr. Al-Mayaleh, Rachel Al-Mayaleh, and Ms. Flanagan all participated by way of telephone conference call.

Disposition

The Commission dismisses the appeal and confirms Director’s Order LD22-050, subject to a variation requiring the outstanding amount of \$3,999.36 to be paid forthwith.

The Issue

The issue to be addressed in this appeal is the amount of return of rent.

Analysis

Mr. Al-Mayaleh told the Commission that he acknowledges he made an error and that he owes the Respondents some return of rent money. However, his position is that the Director miscalculated the amount and that the outstanding amount should be less.

Ms. Flanagan agrees with the amount calculated by the Director.

The Commission agrees with the calculation of return of rent made by the Director. Mr. Al-Mayaleh was in error in increasing the rent in October 2018 and the Commission agrees with the Director that any increase in subsequent years was unlawful as it was based on the original unlawful increase in rent.

The Commission confirms Director's Order LD22-050, subject to a variance requiring the sum of \$3,999.36 to be paid to the Respondents **forthwith**, that is to say immediately upon receipt of the Commission's Order.

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 dismissed.
2. Director's Order LD22-050 is confirmed, subject to a variance that the sum of \$3,999.36 be paid by Mr. Al-Mayaleh to Paula Flanagan and Craig Hughes forthwith upon receipt of this Order.

DATED at Charlottetown, Prince Edward Island, Wednesday, March 23, 2022.

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.