



**Docket: LR22023**

**Order: LR22-22**

**IN THE MATTER** of an appeal, under section 25 of the *Rental of Residential Property Act* (the “Act”), filed by Peace Property Management Company Ltd., against Orders LD22-074 and LD22-075 issued by the Director of Residential Rental Property and both dated March 17, 2022.

**BEFORE THE COMMISSION ON** Thursday, April 21, 2022.

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

Hearing Date: Wednesday, April 20, 2022

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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 Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in finding that there should be a return of rent and the determination of the security deposit.

## **BACKGROUND**

Peace Property Management Company Ltd. (“Peace Property”) rented premises located at 210 – 16 Elena Court, Charlottetown, PE (the “Premises”), to James Martin (“Mr. Martin”) commencing August 1, 2020. Rent for the Premises was \$1,600, plus \$50 for the Wi-Fi, per month and was due and payable on the first day of the month. A security deposit in the amount of \$1,260 was required and paid.

Mr. Martin vacated the Premises on December 6, 2021.

On December 20, 2021, Mr. Martin filed with the Director an Application for Enforcement of Statutory or Other Conditions of Rental Agreement (“Form 2”) seeking a return of rent pursuant to subsection 8(d.1) and 8(d.2) of the *Act*.

On December 21, 2021, Mr. Martin filed with the Director an Application re Determination of the Security Deposit (“Form 9”).

Both applications were heard by the Director at the same time. In Order LD22-074 dated March 17, 2022, the Director ordered that Peace Property retain \$60 from the security deposit and return the balance of \$1,208.21 to Mr. Martin on or before April 15, 2022. In Order LD22-075, also dated March 17, 2022, the Director found that the Form 2 was valid, and ordered that Peace Property return \$1,291.46 to Mr. Martin on or before April 15, 2022.

Peace Property appealed.

The Commission heard the appeal on April 20, 2022. Peace Property was represented by Tuyet Tran (“Ms. Tran”) who participated by way of telephone conference call. Mr. Martin also participated by way of telephone conference call.

## **Disposition**

The appeal is dismissed and Director’s Orders LD22-074 and LD22-075 are confirmed.

## **The Issue**

Did the Director correctly determine that the Form 2 and Form 9 were valid and properly determine the disbursement of the security deposit and the return of rent?

## **Analysis**

Ms. Tran testified that the Premises needed to be cleaned and painted and referred to invoices on file for this. She testified that she had taken pictures, but most were unavailable as her phone was broken.

Mr. Martin testified that he cleaned and removed the garbage and then advised Ms. Tran of this at 5:30 p.m. on December 6, 2021. He testified that Ms. Tran arrived at 6:37 p.m. to do a walk-through and he videoed the walk-through. He noted that he tried, but was unable to provide the video to the Director and the Commission. He stated that Ms. Tran felt he had not properly cleaned the Premises and gave the example of “water droplets in the sink”.

When a landlord seeks to retain the security deposit, the onus is on the landlord to provide objective evidence in support. Usually landlords provide pictures to demonstrate that a cleaning or re-painting is required. Here, Peace Property has not provided objective evidence that the Premises needed a more thorough cleaning and painting. There is no evidence before the Commission to disturb the Director’s findings in Order LD22-074.

Mr. Martin had paid rent for the month of December 2021. Mr. Martin moved out of the Premises on December 6, 2021, after being served with an eviction notice by Peace Property. Mr. Martin was entitled to a pro-rated return of rent as determined by the Director. Accordingly, there is no reason to disturb the Director’s findings in Order LD22-075.

**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 Orders LD22-074 and LD22-075 are confirmed.**

**DATED** at Charlottetown, Prince Edward Island, the 21<sup>st</sup> day of April, 2022.

**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.