



**Date Issued:** October 6, 2023  
**Docket:** LR23071  
**Type:** Rental Appeal

INDEXED AS: VitaDos Holdings Inc. v. Nicholas Mercer  
Order No: LR23-57

**BETWEEN:**

VitaDos Holdings Inc.

**Appellant**

**AND:**

Nicholas Mercer

**Respondent**

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## ORDER

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Panel Members:

J. Scott MacKenzie, K.C., Chair  
Kerri Carpenter, Commissioner

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

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Commission Administrator  
Corporate Services and Appeals

## 1. INTRODUCTION

1. This was an appeal of Order LD23-392 of the Residential Tenancy Office.
2. In Order LD23-392 the Rental Office found that the Landlord had not filed an application with the Rental Office to retain the security deposit as required by section 40(1) of the *Residential Tenancy Act* and therefore ordered the Landlord to pay the Tenant double the security deposit in the amount of \$2,800 on or before September 1, 2023.
3. On September 5, 2023, the Landlord filed an appeal with the Commission.
4. On September 7, 2023, the parties were served, via email, with a Notice of Hearing from Commission Staff advising them that the appeal had been scheduled for a hearing on September 27, 2023, at 9:30a.m. On September 22, 2023, the parties were again contacted by email by Commission Staff and notified of the hearing date and time. Both of these emails were sent to the email address used by the Landlord's representative to file the appeal.
5. On September 27, 2023, the Commission commenced the hearing by way of telephone conference call.
6. When the call began at 9:30 a.m., no representative of the Landlord was on the call. Commission Staff then called the Landlord's representative at the phone number stated on the Notice of Appeal but the call was not answered. Commission staff then sent emails to the Landlord's representative to inform him the hearing had commenced and he should join the conference call. The Commission waited for approximately 12 to 15 minutes but no representative for the Landlord joined the conference call. At this time, the Commission commenced the hearing in the absence of the Landlord.
7. At 9:50 a.m., the Commission noted the absence of the Landlord's representative on the record and, in accordance with Rule 29 of the Commission's Rules of Practice and Procedure, the Commission deemed the appeal abandoned because the Landlord failed to appear at the hearing, despite receiving notice.
8. As of the date of this Order, the Commission has had no contact from the Landlord since the hearing date.

## 2. DISPOSITION

9. The appeal is deemed abandoned in accordance with Rule 29(1)(d) of the Commission's Rules of Practice and Procedure and, therefore, the Commission makes no disposition with respect to the merits of the appeal.

## IT IS ORDERED THAT

1. The appeal is dismissed.

**DATED** at Charlottetown, Prince Edward Island, the 6<sup>th</sup> day of October, 2023.

## BY THE COMMISSION:

(sgd. J. Scott MacKenzie)

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J. Scott MacKenzie, K.C., Chair & CEO

(sgd. Kerri Carpenter)

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Kerri Carpenter, Commissioner

## NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.