



**Date Issued:** November 1, 2023  
**Docket:** LR23096  
**Type:** Rental Appeal

INDEXED AS: Marina Littlejohns v. Mohamad Irfan Ellaheebucksh  
Order No: LR23-65

**BETWEEN:**

Marina Littlejohns

**Appellant**

**AND:**

Mohamad Irfan Ellaheebucksh

**Respondent**

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## ORDER

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Panel Members:

Kerri Carpenter, Commissioner  
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

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Commission Administrator  
Corporate Services and Appeals

## **1. INTRODUCTION**

1. This appeal, of an order related to a Landlord Application for determination regarding a security deposit, was heard by the Commission on October 26, 2023 and asks the Commission to determine whether the Residential Tenancy Office (the "Rental Office") erred in determining the distribution of a tenant's security deposit.

## **2. BACKGROUND**

2. In September of 2022, Marina Littlejohns (the "Landlord") entered into a verbal, month-to-month rental agreement for a room located at 20 Daniel Drive, Apartment #221, Charlottetown, PE (the "Premises") with Mohamad Irfan Ellaheebucksh (the "Tenant"). Rent for the Premises was \$750 per month with a security deposit paid in the amount of \$750.
3. The Tenant vacated the Premises on April 30, 2023.
4. On May 4, 2023 the Landlord filed an Application to Determine Dispute (the "Application") with the Rental Office seeking to retain \$250 of the security deposit. The Landlord confirmed that she had already returned \$500 of the security deposit to the Tenant.
5. The Application was heard by the Rental Office on September 19, 2023. The Rental Office denied the Landlord's Application in Order LD23-460 dated September 28, 2023, pertaining to Rental Office Docket #23-416 (the "Landlord Security Deposit Application"). We note there is an additional docket number which was scheduled to be heard on September 19, 2023, that being Docket #23-425 (the "Tenant Application"), however Order LD23-460 relates only to the Security Deposit Matter. Therefore, this appeal of that Order relates only to the Security Deposit Matter.
6. On October 11, 2023 the Landlord filed an appeal with the Commission.
7. On October 26, 2023 the Commission heard the appeal by way of telephone conference hearing. The Landlord participated. The Tenant also participated.

## **3. DISPOSITION**

8. The appeal is dismissed and Order LD23-460 is confirmed.

## **4. ANALYSIS**

9. The Landlord stated that she received a text message from the Tenant on March 16, 2023 indicating that the furniture was knocked over into a single closet door. She stated that he was the only person home and her cats could not knock over such a heavy piece of furniture. She was not able to provide any first hand evidence as to what happened to the furniture as she was not in the unit at the time the furniture was knocked over.

10. As a result of questions asked by the panel, the Landlord stated that the piece of furniture in question was part of a TV stand she was giving to her daughter. Her daughter already received the lower portion. The Landlord and her daughter moved the upper portion and temporarily set it against the wall in the hallway up against a set of double closet doors on one side of the hallway, directly opposite the single closet door which was ultimately damaged. It was very heavy and difficult to move. It was not blocking the hallway. The Landlord stated that her daughter had access to the apartment by way of a numerical key code for the apartment door lock.
11. The Tenant testified that on March 16, 2023 he came home from the gym at approximately 4:00 p.m. and discovered that the piece of furniture had tipped over and hit a closet door. He did not cause it. He sent a text with a picture to the Landlord. The Tenant does not know how the furniture was tipped over. He suggested it may have been caused by the Landlord's cats.
12. The Landlord claims the sum of \$250.00 from the Tenant's security deposit as a contribution to the repair or replacement of the damaged closet door. The Landlord testified that the total cost of repairs was \$402.50.
13. The onus is on the person making the claim, in this case the Landlord, to establish that it was more probable than not that the Tenant was the cause of the damage. In other words: those who assert something as fact carry the burden to prove it.
14. In the present appeal, the item of furniture, characterized by the Landlord as very heavy and appearing from the photographs in evidence to be quite long, was placed by the Landlord and her daughter in a hallway leaning up against one closet door. It then toppled over and damaged the other closet door on the opposite side. The Landlord says her cats could not have done this, so she speculates that the Tenant was the cause. The Tenant denies causing the furniture to tip over.
15. The Commission finds that there is insufficient evidence to support a finding, on a balance of probabilities, that the Tenant caused the furniture to tip over. The Landlord admits to being the one responsible for placing it in the hallway with the help of her daughter, and there is no evidence that the Tenant did anything to create a precarious situation or cause the piece of furniture to tip over. Accordingly, the Landlord's claim is denied and the Commission agrees with the findings of the Rental Office in Order LD23-460.
16. Finally, the Commission notes that the within Order and associated hearing related only to the Landlord Security Deposit Application, as that was the only matter dealt with in Order LD23-460. It appears the Tenant Application (Rental Office Docket # 23-425) remains outstanding with the Rental Office.

## **5. CONCLUSION**

17. The appeal is dismissed and Order LD23-460 is confirmed.

**IT IS ORDERED THAT**

1. The appeal is dismissed.
2. Order LD23-460 is confirmed.

**DATED** at Charlottetown, Prince Edward Island, Wednesday, November 1, 2023.

**BY THE COMMISSION:**

(sgd. Kerri Carpenter)

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Kerri Carpenter, Commissioner

(sgd. Murray MacPherson)

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Murray MacPherson, Commissioner

**NOTICE**

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

(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.