



Date Issued: March 12, 2024
Dockets: LR23118
Type: Rental Appeal

INDEXED AS: Darren Blanchard v. Angela Omeili
Order No: LR24-09

BETWEEN:

Darren Blanchard

Appellant

AND:

Angela Omeili

Respondent

ORDER

Panel Members:

Kerri Carpenter, Commissioner and
Panel Chair

M. Douglas Clow, Vice-Chair

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This appeal was heard by the Commission on February 2, 2024. The Appellant asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in finding that a landlord is required to pay a tenant double the security deposit together with interest.

B. BACKGROUND

2. On December 19, 2023, the Commission received a Notice of Appeal from Darren Blanchard (the “Appellant”). The Appellant appeals Order LD23-583, dated December 12, 2023, issued by the Residential Tenancy Office (the Rental Office”).
3. In Order LD23-583, the Rental Office ordered that the Appellant pay Angela Omeili (the “Tenant”) double the security deposit, together with interest, in the amount of \$1,204.64.
4. The appeal was heard by the Commission by way of telephone conference call on February 2, 2024. Both parties to the matter were provided with ample notice of the hearing date and time and neither party communicated any concern over the schedule. The Appellant participated in the hearing. The Tenant was not present at the hearing, although Commission Staff attempted to reach her by phone and by email, and waited an additional fifteen minutes before the commencement of the hearing. The Commission was satisfied that the Tenant was given adequate notice of the hearing date and time, and accordingly the hearing proceeded in the absence of the Tenant.

C. DISPOSITION

5. The appeal is allowed and Order LD23-583 is reversed, for the reasons discussed herein. The evidence does not substantiate an order against the Appellant in his personal capacity as he was not a party to the tenancy agreement nor is he in possession of a security deposit.

D. ANALYSIS

6. The Appellant testified that he owns the real property situate at 171 New Glasgow Road, North Milton, PE (the “Premises”) but leases the Premises to a non-profit company named Islanders Helping Islanders, sometimes abbreviated as iHi (“IHI”). The Appellant acknowledged that he is the Executive Director of IHI. The Appellant stated that the landlord is actually IHI and this is reflected in the tenancy agreement (Exhibit E-4) The Appellant also submitted that the bank account for receiving payments was in the name of IHI as noted in the August 21, 2023 payment record (Exhibit E-7). The Appellant takes issue with an application being brought against him personally. In his opinion, IHI is the landlord and any case should be brought against IHI and not him personally.
7. The Commission notes that the Appellant raised his concerns over being named personally at the Rental Office hearing (see for example, Exhibit E-6 wherein Mr.

Blanchard submitted (to the Rental Officer). He clearly indicated he was present at the hearing representing the actual landlord, IHI and stated:

To begin with, I'd like it noted that the agreement in question is with the non-profit, Islanders Helping Islanders, and not specifically with me, Darren Blanchard. As the owner of the property and the Executive director of the non-profit, I will be acting on the business's behalf.

8. From the content of the Rental Office order, it does not appear that the rental officer considered this issue.
9. The Commission finds that a written tenancy agreement was entered into, that the parties to the tenancy agreement were the Tenant and IHI, and that the Tenant paid a security deposit in the amount of \$600.00 to IHI (although she initially paid \$600.00 in US dollars and the landlord reimbursed her the difference taking into account the exchange rate). Mr. Blanchard, who by his own admission is the owner of the premises that were the subject matter of the tenancy agreement, is a landlord by definition under the Act despite not being a party to the tenancy agreement, but he is not a landlord who is holding a security deposit. Accordingly, since he has not received a security deposit (either directly or via a third party collecting it on his behalf), it should be clear that the Appellant, Darren Blanchard, does not have a security deposit to return to the Tenant.
10. The Tenant is free to apply for repayment of the security deposit from IHI, which application would be considered on its merits by the Rental Office.
11. Further, the Commission notes that the landlord IHI, based upon Mr. Blanchard's written and oral submissions, may have a claim of rent owing by the Tenant as the evidence is that the Tenant did not pay any rent, and the rental office found that the tenancy agreement did not end until October 31, 2023, based upon the factual evidence presented to the Rental Office. IHI did not file an application seeking an order requiring the payment of rent, but it may still do so provided it meets the timelines in the Act. The Tenant of course is free to defend such a claim in the event the IHI pursues it.
12. In the event IHI and Tenant each file a claim as noted above, then it would be advisable for the Director to have both matters heard at the same time given that they arise out of the same fact scenario.

E. CONCLUSION

13. The Appeal is allowed and Order LD23-583 is reversed.

IT IS ORDERED THAT:

1. **The appeal is allowed.**
2. **Order LD23-583 is reversed.**

DATED at Charlottetown, Prince Edward Island, 12th day of March, 2024.

BY THE COMMISSION:

(sgd. Kerri Carpenter)

Kerri Carpenter, Commissioner and Panel
Chair

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

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.