



**Docket LR09008
Order LR09-06**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Paula Clark against Order
No. LD09-094 of the Director of Residential
Rental Property, dated March 26, 2009.

BEFORE THE COMMISSION
on Wednesday, the 8th day of April, 2009.

John Broderick, Commissioner
Ernest Arsenault, Commissioner
Gordon McCarville, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson
Commission Administrator

IN THE MATTER of an appeal, under
**Section 25 of the Rental of Residential
Property Act, by Paula Clark against Order
No. LD09-094 of the Director of Residential
Rental Property, dated March 26, 2009.**

Order

On March 31, 2009, the Commission received a Notice of Appeal filed by the Appellant Paula Clark (Ms. Clark). Ms. Clark appealed Order No. LD09-094 issued by the Office of the Director of Residential Rental Property on March 26, 2009.

On April 1, 2009, Commission staff mailed a Notice of Appeal Hearing to Ms. Clark at the address noted on her Notice of Appeal. A Notice of Appeal Hearing was also mailed to the Respondent Brad Oliver (Mr. Oliver). The Notice of Appeal Hearing stated in part:

TAKE NOTICE that a hearing into the attached appeal will be held by The Island Regulatory and Appeals Commission on **Wednesday April 8, 2009** at the National Bank Tower, 5th Floor, 134 Kent Street, Charlottetown, P.E.I., at **9:30 a.m.**

On April 7, 2009, Ms. Clark contacted Commission staff by telephone. Ms. Clark confirmed that she had received the Notice of Appeal Hearing. Ms. Clark requested that the hearing be postponed. Commission staff advised Ms. Clark that the hearing would commence as scheduled. Ms. Clark's response was "OK".

At 9:30 a.m. on April 8, 2009 Ms. Clark was not present in the hearing room. Commission staff attempted to call Ms. Clark without success. Commission staff checked with the Commission's receptionist to see if any messages had been received from Ms. Clark. No telephone or email messages were received. The Commission commenced the hearing at 9:38 a.m. The hearing concluded at 9:44 a.m. with Ms. Clark still not present.

The Commission finds that the onus lies on an appellant to pursue an appeal. Ms. Clark was informed of the date, time and location of the appeal hearing. She acknowledged receipt of the Notice of Appeal Hearing and requested a postponement. She was advised the hearing would proceed as scheduled. Ms. Clark did not file a letter or written submissions putting forward her position, she did not request to participate in the hearing by telephone and she did not ask that her appeal hearing proceed in her absence.

For the above reasons, the Commission finds that Ms. Clark abandoned her appeal, and accordingly, this appeal is hereby dismissed. Accordingly, Order No. LD09-094 issued by the Office of the Director of Residential Rental Property on March 26, 2009 remains in full force and effect.

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 hereby dismissed.
2. Order LD09-094 issued by the Office of the Director of Residential Rental Property on March 26, 2009 remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 8th day of April, 2009.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Ernest Arsenault

Ernest Arsenault, Commissioner

(Sgd.) Gordon McCarville

Gordon McCarville, Commissioner

NOTICE

Sections 26.(2), 26.(3), 26.(4) and 26.(5) of the **Rental of Residential Property Act** provide 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.

IRAC141y-SFN(2008/10)