



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR09031  
Order LR09-26**

**IN THE MATTER** of an appeal, under  
Section 25 of the Rental of Residential  
Property Act, by Cyndie Smith against  
Orders No. LD09-349 and LD09-359, of the  
Director of Residential Rental Property,  
dated November 9, 2009 and November 19,  
2009.

**BEFORE THE COMMISSION**

on Tuesday, the 24th day of November, 2009.

Maurice Rodgerson, Chair  
John Broderick, Commissioner

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# Order

Compared and Certified a True Copy

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(Sgd.) Susan Jefferson  
Commission Administrator

**IN THE MATTER** of an appeal, under Section 25 of the Rental of Residential Property Act, by Cyndie Smith against Orders No. LD09-349 and LD09-359, of the Director of Residential Rental Property, dated November 9, 2009 and November 19, 2009.

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# Order

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On November 23, 2009, the Commission received a Notice of Appeal from Cyndie Smith (Ms. Smith) requesting an appeal of Order LD09-349, dated November 9, 2009, and Order LD09-359, dated November 19, 2009, said Orders issued by the Office of the Director of Residential Rental Property (the Director).

Subsection 25(1) of the *Rental of Residential Property Act* R.S.P.E.I. 1988, Cap. R-13.1 (the **Act**) reads as follows:

*25. (1) Any party to a decision or order of the Director, if the party has appeared or been represented at the hearing before the Director, may appeal therefrom by serving on the Commission, within twenty days after receipt of the decision or order of the Director, a notice of appeal in the form prescribed by regulation. (Emphasis added)*

The Commission has disallowed Ms. Smith's Notice of Appeal as she neither appeared at the November 5, 2009 hearing before the Director, nor was she represented at said hearing. The Commission does not have the authority to waive a requirement of the **Act**.

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**NOW THEREFORE**, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

## IT IS ORDERED THAT

1. The November 23, 2009 Notice of Appeal filed by Cyndie Smith is hereby disallowed.
2. Order LD09-349 and Order LD09-359 issued by the Office of the Director of Residential Rental Property continue in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 24th day of  
**November, 2009.**

**BY THE COMMISSION:**

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(Sgd.) *Maurice Rodgerson*

Maurice Rodgerson, Chair

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(Sgd.) *John Broderick*

John Broderick, 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.*

## **NOTICE: IRAC File Retention**

In accordance with the Commission's Records Retention and Disposition Schedule, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.

IRAC141y-SFN(2009/11)