



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**
Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR10005
Order LR10-14**

IN THE MATTER of an appeal, under
Section 25 of the Rental of Residential
Property Act, by Nicole Buote against Order
LD09-376 of the Director of Residential
Rental Property, dated December 2, 2009

BEFORE THE COMMISSION
on Thursday, the 11th day of February, 2010.

Maurice Rodgerson, Chair
John Broderick, 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 Nicole Buote against Order
LD09-376 of the Director of Residential
Rental Property, dated December 2, 2009**

Order

On February 11, 2010 the Commission received an undated letter purporting to be a Notice of Appeal (the Notice of Appeal) from Nicole Buote (Ms. Buote) requesting an appeal of Order LD09-376, dated December 2, 2009, said Order issued by the Director of Residential Rental Property (the Director).

Subsections 25(1), 25(3) and 33(3) of the *Rental of Residential Property Act* R.S.P.E.I. 1988, Cap. R-13.1 (the **Act**) read 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.
- (3) Where an appeal is not made under subsection (1), the parties are deemed to have accepted the decision of the Director and the decision is final. 1988,c.58,s.25; 1990,c.53,s.7; 1991,c.34,s.1,2; 1991,c.18,s.22 {eff.} Nov. 4/91.
33. (3) Where a document is delivered by ordinary mail, it is deemed to have been delivered on the third day after the date of mailing. 1988,c.58,s.33; 1991,c.18,s.22 {eff.} Nov. 4/91.

The Commission notes that Ms. Buote, on filing her Notice of Appeal, enclosed the original certified copy of Order LD09-376 dated December 2, 2009.

The Commission has disallowed Ms. Buote's Notice of Appeal as the statutory time period for filing an appeal has expired. The Commission does not have the authority to waive a requirement of the **Act**.

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

IT IS ORDERED THAT

1. **The February 11, 2010 Notice of Appeal filed by Nicole Buote is hereby disallowed.**
2. **Order LD09-376 issued by the Office of the Director of Residential Rental Property continues in full force and effect.**

DATED at Charlottetown, Prince Edward Island, this 11th day of February, 2010.

BY THE COMMISSION:

(Sgd.) *Maurice Rodgerson*

Maurice Rodgerson, Chair

(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)