



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR10011  
Order LR10-19**

**IN THE MATTER** of an appeal, under  
Section 25 of the Rental of Residential  
Property Act, by Natasha Johnston against  
Order No. LD10-150 of the Director of  
Residential Rental Property, dated June 2,  
2010.

**BEFORE THE COMMISSION**  
on Monday, the 14th day of June, 2010.

John Broderick, Commissioner  
Michael Campbell, Commissioner  
David Holmes, 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 Natasha Johnston against  
Order No. LD10-150 of the Director of  
Residential Rental Property, dated June 2,  
2010.

---

# Order

---

On June 3, 2010 the Commission received a Notice of Appeal from Natasha Johnston (the Appellant) requesting an appeal of Order LD10-150, dated June 2, 2010, said Order issued by the Director of Residential Rental Property (the Director).

The Commission heard the matter on June 11, 2010. The Appellant was present at the appeal hearing. Wayne Bevan and Betty Morrison represented Sunshine Property Rentals (the Respondent).

The Respondent raised, as a preliminary matter, the fact that the Appellant had not been present at the June 1, 2010 hearing before one of the Director's Residential Rental Property Officers (the Rental Officer).

Upon a review of the matter, the Commission finds that it does not have the jurisdiction to hear this appeal for the reasons that follow.

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 the Appellant, in her Notice of Appeal, acknowledged receipt of Order LD10-150 on June 2, 2010.

The Commission notes that the Notice of Hearing, dated May 26, 2010 and signed by the Rental Officer, notified the Appellant that the hearing before the Director was scheduled for June 1, 2010 at 11:00 a.m. This Notice of Hearing stated in part:

- *If you want to attend this hearing, but cannot do so at the above date and time, contact the office of the Director at P.O. Box 577,*

5<sup>th</sup> Floor, 134 Kent Street, Charlottetown, PE C1A 7L1 (telephone 892-3501 or 1-800-501-6268).

- *If you do not attend or have an authorized representative appear on your behalf, the hearing may proceed in your absence and you will have no right to appeal the decision or order made as a result of the hearing.*

The documents on file with the Commission reveal that the Rental Officer received a fax from the Appellant at 10:06 a.m. on June 1, 2010. This fax advised that the Appellant was unable to attend the hearing. The fax did provide a telephone number to contact the Appellant if the Rental Officer had any questions.

Order LD10-150 reveals that, prior to the hearing on June 1, 2010, the Rental Officer attempted to telephone the Appellant at the number noted in the above mentioned fax. The Rental Officer noted that "...there was no answer and no voicemail available."

The Commission has disallowed the Appellant's Notice of Appeal as the Appellant neither appeared, nor was represented at the hearing before the Director. Accordingly, neither the appearance nor the representation conditions set out in subsection 25(1) of the **Act** were met, and as the Commission does not have the authority to waive a requirement of the **Act**, the Commission must dismiss this appeal.

---

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

**IT IS ORDERED THAT**

1. **The June 3, 2010 Notice of Appeal filed by Natasha Johnston is hereby disallowed.**
2. **Order LD10-150 issued by the Office of the Director of Residential Rental Property continues in full force and effect.**

**DATED** at Charlottetown, Prince Edward Island, this 14th day of June, 2010.

**BY THE COMMISSION:**

\_\_\_\_\_  
(Sgd.) *John Broderick*

John Broderick, Commissioner

\_\_\_\_\_  
(Sgd.) *Michael Campbell*

Michael Campbell, Commissioner

\_\_\_\_\_  
(Sgd.) *David Holmes*

David Holmes, 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)