



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR10020  
Order LR10-27**

**IN THE MATTER** of an appeal, under  
Section 25 of the Rental of Residential  
Property Act, by DeeAnna Mifflin against  
Order LD10-261 of the Director of Residential  
Rental Property, dated September 10, 2010

**BEFORE THE COMMISSION**  
on Friday, the 17th day of September, 2010.

John Broderick, Commissioner  
David Holmes, Commissioner  
Ernest Arsenault, 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 DeeAnna Mifflin against  
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Rental Property, dated September 10, 2010**

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# Order

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On September 13, 2010 the Commission received a Notice of Appeal filed by DeeAnna Mifflin (the Appellant). The Appellant appealed Order LD10-261 issued by the Office of the Director of Residential Rental Property (the Director) on September 10, 2010.

By way of background, John and Kelly DeVries (the Respondents) are the owners of the premises. The Respondents filed with the Director a Form 4 – Notice of Termination by Lessor of Rental Agreement on August 30, 2010. The Respondents also filed with the Director a Form 5 – Application by Lessor for Earlier Termination also dated August 30, 2010.

In Order LD10-261, the Director found:

***IT IS THEREFORE ORDERED THAT***

1. *The lessors' application for earlier termination is valid.*
2. *The rental agreement between the lessors and the lessee for the residential premises is hereby termination as of 5:00 p.m., Friday, September 10, 2010. The lessee and all other occupants must vacate the unit on or before this time and date."*

On September 14, 2010, Commission staff mailed a Notice of Appeal Hearing to the Appellant at the address noted on her Notice of Appeal form. A Notice of Appeal Hearing was also mailed to the Respondents. The Notice of Appeal stated in part:

***TAKE NOTICE that a hearing into the attached appeal will be held by The Island Regulatory and Appeals Commission on **Friday, September 17, 2010** at the National Bank Tower, 5th Floor, 134 Kent Street, Charlottetown, P.E.I., at **9:30 a.m.*****

At 9:30 a.m. on September 17, 2010 the Appellant was not present in the hearing room. Commission staff called the phone number given on the Notice of Appeal form. There was no answer, but a voicemail message provided a cell phone number for the Appellant. Commission staff called the cell phone number, but there was no answer. Commission staff had not received any telephone or email messages from the Appellant following the filing of the Notice of Appeal form. The Commission commenced the hearing at 9:40 a.m. The hearing concluded at 9:46 a.m. with the Appellant still not present.

The Commission finds that the onus lies on an appellant to pursue an appeal. The Appellant was informed of the date, time and location of the appeal

hearing. The Appellant did not communicate with Commission staff after filing her appeal.

Commission appeals involving termination issues are often scheduled soon after the filing of a Notice of Appeal. The hearing audio record reveals that Commission staff informed the Appellant, when she filed her appeal, that the hearing might be held very soon.

For the above reasons, the Commission finds that the Appellant abandoned her appeal, and accordingly, this appeal is hereby dismissed. Accordingly, Order No. LD10-261 issued by the Office of the Director of Residential Rental Property on September 10, 2010 remains in full force and effect.

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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 Appeal is hereby dismissed.**
2. **Order No. LD10-261 issued by the Office of the Director of Residential Rental Property on September 10, 2010 remains in full force and effect.**

**DATED** at Charlottetown, Prince Edward Island, this **17th** day of **September, 2010**.

**BY THE COMMISSION:**

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(Sgd.) *John Broderick*  
John Broderick, Commissioner

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(Sgd.) *David Holmes*  
David Holmes, Commissioner

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(Sgd.) *Ernest Arsenault*  
Ernest Arsenault, 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)