



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11001
Order LR11-03**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Jodi Van Iderstine against
Order LD10-354 of the Director of Residential
Rental Property, dated December 14, 2010

BEFORE THE COMMISSION
on Monday, the 10th day of January, 2011.

Allan Rankin, Vice-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 Jodi Van Iderstine against
Order LD10-354 of the Director of Residential
Rental Property, dated December 14, 2010**

Order

On January 4, 2011 the Commission received a Notice of Appeal dated December 18, 2010 from Jodi Van Iderstine (the Appellant) requesting an appeal of Order LD10-354, dated December 14, 2010, said Order issued by the Director of Residential Rental Property (the Director).

Order LD10-354 states, in part:

“AND WHEREAS a Notice of Hearing dated September 29, 2010 was sent to the lessor and the lessee advising them of a hearing scheduled for October 14, 2010...

AND WHEREAS on October 8, 2010 the Officer spoke with the lessee and she made the following comments:

- she received the Notice of Hearing ...*
- she believes that the lessor’s application is redundant and she advised that she is not going to attend the hearing...*

The Officer suggested to her that she could send someone to the hearing to represent her...

AND WHEREAS a hearing was held on this matter at Access PEI in Montague on October 14, 2010 at 1:30 p.m. ... The lessee did not attend nor did she contact the Residential Rental Property Officer to indicate that she would be absent. The hearing proceeded in the absence of the lessee.”

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.*

Emphasis added.

The Commission has disallowed the Appellant's Notice of Appeal as the Appellant did not appear or have a representative at the hearing before the Director. 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 January 4, 2011 Notice of Appeal filed by Jodi Van Iderstine is hereby disallowed. Therefore, Order LD10-354 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 10th day of January, 2011.

BY THE COMMISSION:

(Sgd.) *Allan Rankin*

Allan Rankin, Vice-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)