



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11006
Order LR11-09**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Eddie MacKenzie against
Order LD11-067 of the Director of Residential
Rental Property, dated March 22, 2011

BEFORE THE COMMISSION
on Monday, the 18th day of April, 2011.

John Broderick, Commissioner
Allan Rankin, Vice-Chair

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 Eddie MacKenzie against
Order LD11-067 of the Director of Residential
Rental Property, dated March 22, 2011

Order

On April 8, 2011 the Commission received a Notice of Appeal pursuant to Section 25 of the **Rental of Residential Property Act** (the **Act**) dated April 7, 2011 from Eddie MacKenzie (the Appellant) requesting an appeal of Order LD11-067, dated March 22, 2011, said Order issued by the Director of Residential Rental Property (the Director).

Order LD11-067 states in part:

“AND WHEREAS a hearing was considered to have been held on the condition of the residential premises by way of an inspection of the premises on March 11, 2011 pursuant to section 4.(2)(d) of the Act. An Inspection Order for March 11, 2011 was sent to the lessee and lessor and the Residential Property Officer conducted the inspection of the residential premises on that date. Present during the inspection was the lessee; however, the lessor did not attend nor did he contact the Residential Rental Property Officer to indicate that he would be absent. The inspection proceeded in the absence of the lessor.”

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 April 8, 2011 Notice of Appeal filed by Eddie MacKenzie is hereby disallowed. Therefore, Order LD11-067 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **18th** day of **April**, 2011.

BY THE COMMISSION:

(Sgd.) John Broderick

John Broderick, Commissioner

(Sgd.) Allan Rankin

Allan Rankin, Vice-Chair

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)