



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR11031
Order LR11-34**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Paul Lee against Order
LD11-291 of the Director of Residential
Rental Property, dated November 16, 2011

BEFORE THE COMMISSION
on Wednesday, the 23rd day of November,
2011.

John Broderick, Commissioner
Allan Rankin, Vice-Chair

Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

Commission Administrator
Land, Corporate and Appellate Services Division

**IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Paul Lee against Order
LD11-291 of the Director of Residential
Rental Property, dated November 16, 2011**

Order

On November 21, 2011 the Commission received a Notice of Appeal dated November 21, 2011 from Paul Lee (the Appellant) requesting an appeal of Order LD11-291 dated November 16, 2011, said Order issued by the Director of Residential Rental Property (the Director).

The Commission notes on the Notice of Appeal that the Appellant has spelled his surname as “Lee” and not “Lea” as set out in the Director’s Order LD11-291.

The matter was initially heard by the Director on November 10, 2011. In Order LD11-291 it states, in part:

“AND WHEREAS a Notice of Hearing dated November 4, 2011 was sent to the lessor and the lessee advising them of a hearing scheduled for November 10, 2011...

AND WHEREAS a hearing was held on this matter on November 10, 2011 ... The lessee did not appear nor did he contact the Director to explain his absence.”

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 November 21, 2011 Notice of Appeal filed by Paul Lee, known in the Director's Order as Paul Lea, is hereby disallowed. Therefore, Order LD11-291 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 23rd day of November, 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)