



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR12010  
Order LR12-13**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Rhonda Gormley against  
Order LD12-127 dated May 16, 2012 issued  
by the Director of Residential Rental  
Property.

**BEFORE THE COMMISSION**  
on Tuesday, the 22nd day of May, 2012.

John Broderick, Commissioner  
Allan Rankin, Vice-Chair

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# Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

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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 Rhonda Gormley against Order LD12-127 dated May 16, 2012 issued by the Director of Residential Rental Property.

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# Order

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On May 18, 2012 the Commission received a Notice of Appeal from Rhonda Gormley (the Appellant) requesting an appeal of Order LD12-127 dated May 16, 2012, said Order issued by the Director of Residential Rental Property (the Director).

The matter was initially heard by the Director on May 16, 2012. In Order LD12-127 it states, in part:

*“AND WHEREAS a Notice of Hearing dated May 9, 2012 was mailed to both parties advising them of a hearing scheduled on May 16, 2012...”*

*AND WHEREAS a hearing was held on this matter on May 16, 2012 ... The lessee did not attend nor did she contact the Residential Rental Property Officer to indicate that she would be absent.”*

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 May 18, 2012 Notice of Appeal filed by Rhonda Gormley, is hereby disallowed. Therefore, Order LD12-127 issued by the Director remains in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 22nd day of May, 2012.

**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)