



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR12021  
Order LR12-21**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Blair MacDonald against  
Order LD12-244 of the Director of Residential  
Rental Property, dated September 7, 2012

**BEFORE THE COMMISSION**  
on Friday, the 14th day of September, 2012.

Allan Rankin, Vice-Chair  
John Broderick, Commissioner

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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  
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On September 11, 2012 the Commission received a Notice of Appeal dated the same date from a lessor, Blair MacDonald (the Appellant) requesting an appeal of Order LD12-244 dated September 7, 2012, said Order issued by the Director of Residential Rental Property (the Director).

The matter was initially heard by the Director on August 29, 2012. In Order LD12-244 it states, in part:

*“AND WHEREAS a Notice of Hearing dated August 22, 2012 was sent to the lessor and the lessee advising them of a hearing scheduled for August 29, 2012...”*

*AND WHEREAS on August 29, 2012 at approximately 11:05 a.m. the Officer contacted the lessor to ask if he intended to appear at the hearing scheduled at 11:00 a.m. The lessor stated that he would not attend...”*

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**.

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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 September 11, 2012 Notice of Appeal filed by Blair MacDonald is hereby disallowed. Therefore, Order LD12-244 issued by the Director remains in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this **14th** day of **September, 2012**.

**BY THE COMMISSION:**

(sgd. Allan Rankin)

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Allan Rankin, Vice-Chair

(sgd. John Broderick)

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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)