



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR12036
Order LR12-31**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act by Tremere's Ocean View
Cottages Inc. against Order LD12-313 dated
November 13, 2012 issued by the Director of
Residential Rental Property.

BEFORE THE COMMISSION

on Tuesday, the 4th day of December, 2012.

John Broderick, Commissioner
Leonard Gallant, Commissioner
Peter McCloskey, Commissioner

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 Tremere's Ocean View Cottages Inc. against Order LD12-313 dated November 13, 2012 issued by the Director of Residential Rental Property.

Order

BACKGROUND

On November 20, 2012 the Commission received a Notice of Appeal dated November 15, 2012 signed by a lessor, Tim Tremere on behalf of Tremere's Ocean View Cottages Inc. (the Appellant) requesting an appeal of Order LD12-313 dated November 13, 2012 issued by the Director of Residential Rental Property (the Director).

By way of background, on June 13, 2012 a lessee, Beth Lassaline, on behalf of herself and her co-lessee, Tian Wigmore (collectively the Respondents) filed with the Director a Form 9 – Application re Determination of Security Deposit together with a Form 8 – Notice of Intention to Retain Security Deposit dated June 6, 2012 signed by the Appellant.

The matter was heard by the Director on August 14, 2012 and in Order LD12-313 the Director ordered:

“IT IS THEREFORE ORDERED THAT

- 1. The lessor shall receive the sum of \$120.00 from the security deposit funds held in trust*
- 2. The lessees shall receive the sum of \$534.36 from the security deposit funds held in trust;*
- 3. Payment to the parties shall be made after the appropriate appeal period has expired.”*

The hearing was held by the Commission on December 4, 2012. The Appellant did not appear at the hearing. The Respondents were present at the hearing.

DECISION

The Commission delayed the start of the hearing twenty minutes in case the Appellant's representative was running late. During that time Commission staff attempted to contact the Appellant by telephone.

The hearing commenced at 1:50 p.m. Commission staff read into the record a series of email exchanges between staff and the Appellant's representative. This, along with the Revised Notice of Appeal Hearing, establishes that the Appellant was aware of the date, time and location of the hearing.

As there was no person present to represent the Appellant, the Commission deems the appeal to have been abandoned and accordingly, the appeal is dismissed. As a result, Order LD12-313 issued by the Director remains in full force and effect.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

IT IS ORDERED THAT

1. The appeal is hereby dismissed as the Appellant has abandoned the appeal.
2. Order LD12-313 remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **4th** day of **December**, 2012.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Leonard Gallant)

Leonard Gallant, Commissioner

(sgd. Peter McCloskey)

Peter McCloskey, 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)