



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR13003
Order LR13-03**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Andre Darville against Order
LD13-028 dated February 1, 2013 issued by
the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Friday, the 1st day of March, 2013.

Maurice Rodgerson, Chair
Jean Tingley, 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 Andre Darville against Order
LD13-028 dated February 1, 2013 issued by
the Director of Residential Rental Property.

Order

BACKGROUND

On February 22, 2013 the Commission received a Notice of Appeal dated the same date signed by a lessee, Andre Darville (the Appellant) requesting an appeal of Order LD13-028 dated February 1, 2013 issued by the Director of Residential Rental Property (the Director).

By way of background on November 21, 2012 a lessor, Clifford McQuaid, filed with the Director a Form 2 – Application for Enforcement of Statutory or Other Conditions of Rental Agreement seeking the following remedy by way of:

“(i) (other) ... dispose of abandoned personal belongings.”

The matter was heard, ex parte, by the Director on January 11, 2013 and in Order LD13-028 the Director states at Page 2:

*“**BASED** on the information presented to the Director regarding this file, the Director finds as follows:*

Section 28.(1), (2) and (3) states as follows:

28. (1) The lessee is not entitled to leave personal property in the residential premises after the rental agreement has terminated.

(2) Where a lessee has abandoned or apparently abandoned personal property in the residential premises after the rental agreement has terminated, the lessor may apply in the form prescribed by regulation to the Director for an order with respect to disposal of the property. 1998,c.100,s.4.

*(3) An application pursuant to subsection (2) may be made **ex parte**, and shall not set out the facts from which abandonment is inferred, and a detailed list of the abandoned property.”*

Emphasis added

At Page 3 of Director’s Order LD13-028 it states:

“Section 28,(4) states as follows:

The Director, in an application pursuant to subsection (2), may make such order as he deems just and fit in the circumstances.”

The Commission has disallowed the Appellant's Notice of Appeal as the Commission does not have the jurisdiction to hear an appeal of an ex parte order under subsection 28(3) of the ***Rental of Residential Property Act*** (the **Act**). 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 February 22, 2013 Notice of Appeal filed by Andre Darville is hereby disallowed. Therefore, Order LD13-028 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **1st** day of **March**, 2013.

BY THE COMMISSION:

(sgd. Maurice Rodgerson)

Maurice Rodgerson, Chair

(sgd. Jean Tingley)

Jean Tingley, 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)