



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR13019
Order LR13-17**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act by Jason Gallant against Order
LD13-288 dated September 25, 2013 issued
by the Director of Residential Rental
Property.

BEFORE THE COMMISSION

on Thursday, the 10th day of October, 2013.

John Broderick, Acting Vice-Chair
Maurice Rodgerson, 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 Jason Gallant against Order LD13-288 dated September 25, 2013 issued by the Director of Residential Rental Property.

Order

On October 3, 2013 the Commission received a Notice of Appeal dated the same date from a lessee, Jason Gallant (the Appellant) requesting an appeal of Order LD13-288 dated September 25, 2013 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on September 24, 2013. In Order LD13-288 it states, in part:

"AND WHEREAS a Notice of Hearing dated September 16, 2013 was sent to the lessor and the lessee advising them of a hearing scheduled for September 24, 2013 regarding the lessor's application..."

AND WHEREAS a hearing was held on this matter on September 24, 2013 pursuant to Section 4.(2)(d) of the Act. The lessor's representative, Keith Sanders, was present. The lessee did not attend nor did he contact the Residential Rental Property Officer to indicate that he would be absent. The hearing proceeded in the absence of the lessee."

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.

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 October 3, 2013 Notice of Appeal filed by Jason Gallant is hereby disallowed.
2. Order LD13-288 issued by the Director remains in full force and effect.
3. Possession of the rental premises located at 61 Anderson Road, Apartment 20, Kinkora, PE are surrendered to the lessor, Sandersmith Enterprises PE Inc. , and the Sheriff is directed to put the lessor in possession of the residential premises forthwith.

DATED at Charlottetown, Prince Edward Island, this **10th** day of **October**, 2013.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Acting Vice-Chair

(sgd. Maurice Rodgerson)

Maurice Rodgerson, 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)