



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR13024  
Order LR13-19**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act by Tanya Kemp against Order  
LD13-339 dated November 5, 2013 issued by  
the Director of Residential Rental Property.

**BEFORE THE COMMISSION**

on Tuesday, the 12th day of November, 2013.

John Broderick, Acting Vice-Chair  
Peter McCloskey, 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 Property Act by Tanya Kemp against Order LD13-339 dated November 5, 2013 issued by the Director of Residential Rental Property.

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# Order

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On November 7, 2013 the Commission received a Notice of Appeal dated the same date from a lessee, Tanya Kemp (the Appellant) requesting an appeal of Order LD13-339 dated November 5, 2013 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on November 5, 2013. In Order LD13-339 it states, in part:

*"AND WHEREAS a Notice of Hearing dated October 29, 2013 was sent to the parties advising them of a hearing scheduled for November 5, 2013. Enclosed with the Notice of Hearing was a copy of the lessor's application.*

*AND WHEREAS a hearing was held on this matter on November 5, 2013 pursuant to Section 4.(2)(d) of the Act. The lessor [Paul Rowe] was represented by Matt O'Halloran. The lessee did not attend nor did she contact the Director to indicate that she 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 November 7, 2013 Notice of Appeal filed by Tanya Kemp is hereby disallowed.
2. Order LD13-339 issued by the Director remains in full force and effect.
3. Possession of the residential premises located at 43 Keppoch Road, Stratford, PE be surrendered to the lessor, Paul Rowe as represented by Matt O'Halloran, and the Sheriff is directed to put the lessor in possession of the residential premises forthwith.

**DATED** at Charlottetown, Prince Edward Island, this **12th** day of **November, 2013**.

**BY THE COMMISSION:**

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(sgd. John Broderick)

John Broderick, Acting Vice-Chair

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(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)