



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR13025  
Order LR14-01**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act (the Act), by Delbert Reeves  
against Order LD13-325 dated October 18,  
2013 issued by the Director of Residential  
Rental Property.

**BEFORE THE COMMISSION**

on Monday, the 20th day of January, 2014.

John Broderick, Commissioner  
Ferne MacPhail, Commissioner  
Peter McCloskey, Commissioner

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# Order

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# Order

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## BACKGROUND

On November 12, 2013 the Commission received a Notice of Appeal dated the same date from a lessee, Delbert Reeves (the Appellant) requesting an appeal of Order LD13-325 dated October 18, 2013 and issued by the Director of Residential Rental Property (the Director).

By way of background, on May 1, 2013 a lessor, Hambly Enterprises Ltd. (the Respondent) filed with the Director a Form 12 - Application by Lessor for Approval of Rent Increase Exceeding Percentage Allowed by Regulation dated April 30, 2013 pursuant to Section 23.(3) of the Act. The 2013 allowable percentage increase for a mobile home site in a mobile home park is 1.50% as prescribed by the Commission.

A hearing was held by the Director on June 4, 2013 and on October 18, 2013 the Director issued Order LD13-325 which states in part:

***“...The rental increase must be limited to the allowable 1.5 per cent increase approved by the Island Regulatory and Appeals Commission for 2013.*”**

### ***IT IS THEREFORE ORDERED THAT***

- 1. The rent increase applied for shall be varied in conformity with the following schedule....***
- 2. The approved rates are effective as of August 1, 2013.”***

The appeal was heard before the Commission on December 9, 2013. The Appellant was present and was accompanied by Barb Carroll who testified on behalf of the Appellant. Wayne Hambly testified on behalf of the Respondent was represented by legal counsel, Pamela Williams, Q.C. Michael Fitzpatrick and Peter Waddell testified on behalf of the Respondent.

## SUBMISSIONS

On behalf of the Respondent, Ms. Williams noted that the Appellant is attempting to appeal the allowable 1.5 percent increase approved by the Commission for 2013. Ms. Williams submitted that there is no provision in the **Rental of Residential Property Act** (the **Act**) to allow for an appeal of the allowable increase.

The Appellant submitted that subsection 23(4) of the **Act** allows a lessee to apply to the Director to review the rent increase being sought. The Appellant submits that accordingly an appeal of an allowable increase should be possible.

## DECISION

The Commission denies this appeal for the following reasons.

The allowable rental increase does not require the approval of the Director and therefore is available to a lessor as of right, provided that the lessor has followed the statutory requirements set out in the **Act**. In the present case, the Respondent had provided notice to the Appellant and the other lessees that a rental increase would be sought and the Commission finds that such notice meets the statutory requirements under the **Act**.

Further, the Commission is mindful of the fact that the file contains documents noting the consent of the Appellant and other lessees to the allowable rental increase, including the preamble of the petition filed by the lessees:

*All Signatures on this Petition are signed to show we are Strongly Opposed to a lot rental increase other than what is allowed under the Rentals 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 appeal is hereby denied.

**DATED** at Charlottetown, Prince Edward Island, this **20th** day of **January**, **2014**.

**BY THE COMMISSION:**

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John Broderick, Commissioner

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Ferne MacPhail, Commissioner

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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)