



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR14023  
Order LR14-19**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, made by Barb McAdam, as  
represented by Nancy Stewart against Order  
LD14-186 dated June 18, 2014 issued by the  
Director of Residential Rental Property.

**BEFORE THE COMMISSION**  
on Thursday, the 24th day of July, 2014.

J. Scott MacKenzie, Q.C., Chair  
John Broderick, 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, made by Barb McAdam, as represented by Nancy Stewart against Order LD14-186 dated June 18, 2014 issued by the Director of Residential Rental Property.

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# Order

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On July 23, 2014 the Commission received a Notice of Appeal dated the same date from Nancy Stewart, the representative of a lessor, Barb McAdam (the Appellant) requesting an appeal of Order LD14-186 dated June 18, 2014 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on June 10, 2014. In Order LD14-186 it states, in part:

*"AND WHEREAS a Notice of Hearing dated May 22, 2014 was sent to the lessee and the lessor advising them of a hearing scheduled for June 10, 2014 regarding the lessee's' application..."*

*AND WHEREAS a hearing was held on this matter on June 10, 2014 pursuant to Section 4.(2)(d) of the Act. The lessee [Marlene Gallant] was present. Neither the lessor nor her representative was present. The hearing proceeded in the absence of the lessor."*

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.*

**Emphasis added**

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 and the Notice of Appeal was received more than twenty days after receipt of the Order of 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 July 23, 2014 Notice of Appeal filed by Nancy Stewart as representative of Barb McAdam is hereby disallowed.
2. Order LD14-186 issued by the Director remains in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this **24th** day of **July**, 2014.

**BY THE COMMISSION:**

(sgd. J. Scott MacKenzie)

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J. Scott MacKenzie, Q.C., Chair

(sgd. John Broderick)

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John Broderick, 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)