



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR15036  
Order LR15-34**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Nancy Paquet (also known  
as Nanci Paquet) against Order LD15-388  
dated October 29, 2015 issued by the  
Director of Residential Rental Property.

**BEFORE THE COMMISSION**

on Tuesday, the 3rd day of November, 2015.

M. Douglas Clow, Vice-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  
Corporate Services and Appeals

**IN THE MATTER** of an appeal under Section 25 of the Rental of Residential Property Act, by Nancy Paquet (also known as Nanci Paquet) against Order LD15-388 dated October 29, 2015 issued by the Director of Residential Rental Property.

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# Order

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On October 30, 2015 the Commission received a Notice of Appeal dated the same date from a lessee, Nancy Paquet (the Appellant) requesting an appeal of Order LD15-388 dated October 29, 2015 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on October 29, 2015. In Order LD15-388 it states, in part:

*“AND WHEREAS a Notice of Hearing dated October 21, 2015 was sent to the lessor and the lessee advising them of a hearing scheduled for October 29, 2015 regarding the lessor’s application..*

*AND WHEREAS the lessee contacted the Office of the Director on the morning of October 29, 2015 and left a voicemail... The Director called back at 9:10 AM to advise that the hearing would proceed at 11:00 AM but that the lessee could attend after ...*

*AND WHEREAS a hearing was held on this matter on October 29, 2015 pursuant to Section 4.(2) of the Act. The lessor’s representative was present. The lessee did not appear at that time. The hearing proceeded in the absence of the lessee. The lessee did not appear at any point on October 29, 2015 and did not return the Director’s telephone call to her.”*

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. In addition, the Appellant did not avail herself of the Director's offer to attend at her office later in the day to give her evidence. 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 30, 2015 Notice of Appeal filed by Nancy Paquet is hereby disallowed.**
2. **Therefore, Order LD15-388 issued by the Director remains in full force and effect.**
3. **Possession of the residential premises located at 7 Longworth Avenue, Apartment #20, Charlottetown, PE be surrendered to the Respondent (lessor), Elm Towers, and the Sheriff is directed to put the Respondent in possession of the residential premises forthwith.**

**DATED** at Charlottetown, Prince Edward Island, this **3rd** day of **November**, 2015.

**BY THE COMMISSION:**

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(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

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(sgd. John Broderick)

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)