



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR16004
Order LR16-04**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, filed by Ben Parchem against
Order LD15-422 issued by the Director of
Residential Rental Property dated November
30, 2015.

BEFORE THE COMMISSION
on Thursday, the 18th day of February, 2016.

John Broderick, Commissioner
Douglas Clow, Vice-Chair

Order

Compared and Certified a True Copy

(Sgd.) Dawn Murphy

Appeals Coordinator
Corporate Services and Appeals

IN THE MATTER of an appeal under Section 25 of the **Rental of Residential Property Act**, filed by **Ben Parchem** against **Order LD15-422** issued by the **Director of Residential Rental Property** dated **November 30, 2015**.

Order

On February 8, 2016, the Commission received a Notice of Appeal from a lessor, Ben Parchem, represented by Donna Parchem (the "Appellant").

Order LD15-422 was issued by the Office of the Director of Residential Rental Property (the "Director") on November 30, 2015. Attached to the Notice of Appeal was a certified true copy of Order LD15-422 with a certification date stamped "JAN 18 2016". The Notice of Appeal references Order LD15-422 as the decision under appeal.

The Appellant states that Order LD15-422 was not received within the appropriate time as it was sent to the Appellant's old mailing address.

The appeal is dismissed for the following reasons:

The appeal was filed over two months after the Director issued Order LD15-422, which is beyond the statutory time limit set out in subsection 25(1) of the Rental of Residential Property Act. A mailing address for the Appellant was stated in the Standard Form of Rental Agreement signed by the parties and dated December 15, 2014. The Director sent the Order to the Appellant at the only then known address for the Appellant. When the Director learned of a new mailing address for the Appellant, a certified copy of the Order was sent to the new address; however, by that time the time to appeal had expired. The Director also sent a copy of the Order to the Appellant via email.

The onus is on a party to keep the Director fully apprised of any changes in contact information, including mailing address, telephone number and email address. The Commission finds that the Director made reasonable efforts to contact the Appellant and send the Order to the Appellant using the available contact information on file at the time of issuing the Order. The Commission also finds that the Director diligently followed through with sending a certified copy of the Order via mail and email to the Appellant upon the Director becoming aware of the Appellant's new contact information.

As the appeal was filed well beyond the statutory appeal period and the delay in the Appellant receiving actual notice of Order LD15-422 was not attributable to any error or omission by the Director, the Commission has no jurisdiction to hear this appeal.

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

IT IS ORDERED THAT

1. The Commission does not have jurisdiction to hear this appeal.

DATED at Charlottetown, Prince Edward Island, this **18th** day of **February**, 2016.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. Douglas Clow)

Douglas Clow, Vice-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)