



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR17012
Order LR17-08**

IN THE MATTER of an appeal filed under Section 25 of the Rental of Residential Property Act by Dr. Syed Naqvi against Order LD17-139 dated May 25, 2017 issued by the Office of the Director of Residential Rental Property.

BEFORE THE COMMISSION
on Wednesday, the 5th day of July, 2017.

John Broderick, Commissioner
M. Douglas Clow, Vice-Chair

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

IN THE MATTER of an appeal filed
under Section 25 of the **Rental of Residential
Property Act** by **Dr. Syed Naqvi** against Order
LD17-139 dated **May 25, 2017** issued by the
**Office of the Director of Residential Rental
Property.**

Order

The Commission received a Notice of Appeal from a lessee, Dr. Syed Naqvi (the "Appellant"), requesting an appeal of Order LD17-139 dated May 25, 2017 issued by the Director of Residential Rental Property (the "Director"). The Notice of Appeal was received by Access PEI Summerside on June 23, 2017 and was received by the Commission on June 27, 2017. The Commission deems that the Notice of Appeal was received on June 23, 2017 as Access PEI serves as an agent for the Commission.

The Appellant's Notice of Appeal indicates that he received a copy of Order LD17-139 on May 29, 2017.

Subsection 25(1) of the Rental of Residential Property Act R.S.P.E.I. 1988, Cap. R-13.1 (the **Act**) reads 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."

Subsection 33(3) of the **Act** reads as follows:

"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."

The Commission finds that the last date for filing the appeal would have been June 19, 2017. As the appeal was not received until June 23, 2017, the appeal was filed beyond the statutory appeal period and the Commission has no jurisdiction to hear this appeal.

The Commission does not have the authority to waive a requirement of the **Act** or extend the statutory appeal period. Accordingly, this appeal is disallowed and Director's Order LD17-139 remains in full force and effect.

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 has no jurisdiction to hear this appeal as the Notice of Appeal was received after the statutory appeal period had expired. The appeal is therefore dismissed.
2. Director's Order LD17-139 remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this **5th** day of **July, 2017**.

BY THE COMMISSION:

(sgd. John Broderick)

John Broderick, Commissioner

(sgd. M. Douglas Clow)

M. 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)