



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR17016  
Order LR17-17**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Alicia MacArthur and Jarred  
Dingwell against Order LD17-222 dated  
September 25, 2017 issued by the Director  
of Residential Rental Property.

**BEFORE THE COMMISSION**  
on Friday, the 29th day of September, 2017.

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

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# Order

Compared and Certified a True Copy

(Sgd.) Susan 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 Alicia MacArthur and Jarred Dingwell against Order LD17-222 dated September 25, 2017 issued by the Director of Residential Rental Property.

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# Order

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On September 28, 2017, the Commission received a Notice of Appeal from two lessees, Alicia MacArthur and Jarred Dingwell (the Appellants) requesting an appeal of Order LD17-222 dated September 25, 2017 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on September 18, 2017. In Order LD17-222 it states, in part:

*“AND WHEREAS a Notice of Hearing dated September 11, 2017 was sent to the lessor and the lessee advising them of a hearing scheduled for September 18, 2017 regarding the lessor’s application...”*

*AND WHEREAS a hearing was held on this matter on September 18, 2017 pursuant to Section 4.(2) of the **Rental of Residential Property Act**.... The lessor’s representative Wayne Beaton, was present. The lessee did not attend the hearing and could not be reached by telephone. Following the hearing, the lessee contacted the Office of the Director and stated that she had just received the Notice of Hearing.*

*AND WHEREAS the Acting Director made several appointments with the lessee to take her evidence on the application. The lessee did not respond to the Acting Director’s telephone calls for these scheduled times.”*

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 Appellants' Notice of Appeal as the Appellants did not appear or have a representative at the hearing before 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 September 28, 2017 Notice of Appeal filed by Alicia MacArthur and Jarred Dingwell is hereby disallowed.
2. Therefore, Order LD17-222 issued by the Director remains in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 29th day of September, 2017.

**BY THE COMMISSION:**

(sgd. M. Douglas Clow)

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M. Douglas Clow, Vice-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)