



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR17021  
Order LR17-19**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Audrey Llewellyn against  
Order LD17-240 dated October 12, 2017  
issued by the Director of Residential Rental  
Property.

**BEFORE THE COMMISSION**

on Tuesday, the 17th day of October, 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 Audrey Llewellyn against Order LD17-240 dated October 12, 2017 issued by the Director of Residential Rental Property.

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# Order

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On October 16 2017, the Commission received a Notice of Appeal from a lessee, Audrey Llewellyn (the “Appellant”) requesting an appeal of Order LD17-240 dated October 12, 2017 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on October 10, 2017. In Order LD17-240 it states, in part:

*“AND WHEREAS a Notice of Hearing dated October 2, 2017 was sent to the lessor and the lessee advising them of a hearing scheduled for October 10, 2017 regarding the lessor’s application...”*

*AND WHEREAS a hearing was held on this matter on October 10, 2017 pursuant to Section 4.(2)(d) of the **Rental of Residential Property Act**.... The lessor, Yuxia Zhong attended the hearing... The lessee did not attend the hearing and did not contact the Officer to advise that she would be absent.*

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 she 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 October 16, 2017 Notice of Appeal filed by Audrey Llewellyn is hereby disallowed.
2. Therefore, Order LD17-240 issued by the Director remains in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 17th day of **October**, 2017.

**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)