



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR18002
Order LR18-01**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act, by Ray Acorn and Carrie
Lawlor against Order LD18-016 dated
January 18, 2018 issued by the Director of
Residential Rental Property.

BEFORE THE COMMISSION
on Tuesday, the 23rd day of January, 2018.

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

Order

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

IN THE MATTER of an appeal under Section 25 of the Rental of Residential Property Act, by Ray Acorn and Carrie Lawlor against Order LD18-016 dated January 18, 2018 issued by the Director of Residential Rental Property.

Order

On January 19, 2018, the Commission received a Notice of Appeal from two lessees, Ray Acorn and Carrie Lawlor (the “Appellants”) requesting an appeal of Order LD18-016 dated January 18, 2018 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on January 17, 2018. In Order LD18-016 it states, in part:

*“**AND WHEREAS** a Notice of Hearing dated January 9, 2018 was sent to the lessor and the lessees advising them of a hearing scheduled for January 17, 2018 regarding the lessor’s application...*

***AND WHEREAS** a hearing was held on this matter on January 17, 2018 pursuant to Section 4(2)(d) of the **Rental of Residential Property Act**.... The lessor, Keir MacLeod, attended the hearing. The lessees, Ray Acorn and Carrie Lawlor, did not attend the hearing and did not contact the Office of the Director of Residential Rental Property to request an adjournment. The hearing proceeded in the absence of the lessees.*

...

*On November 8, 2017, the lessor served the lessees with a Notice of Termination by Lessor of Rental Agreement (Form 4) dated November 8, 2017 to be effective January 8, 2018... The lessees did not file to set aside the Notice of Termination (Form 4) in accordance with Section 16.(1) of the **Act** and are therefore deemed to have accepted the Notice of Termination dated November 8, 2017 in accordance with Section 16.(3) of the **Act**.*

...

IT IS THEREFORE ORDERED THAT

1. Possession of the residential premises will be surrendered to the lessor and the Sheriff is directed to put the lessor in possession of the residential premises on Wednesday, January 31, 2018 at 12:00 p.m.”

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.

DECISION

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 January 19, 2018 Notice of Appeal filed by Ray Acorn and Carrie Lawlor is hereby disallowed.
2. Therefore, Order LD18-016 issued by the Director remains in full force and effect and that possession of the residential premises will be surrendered to the lessor, Keir MacLeod, and the Sheriff is directed to put the lessor, Keir MacLeod, in possession of the residential premises on Wednesday, January 31, 2018 at 12:00 p.m.

DATED at Charlottetown, Prince Edward Island, this 23rd day of January, 2018.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(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)