



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR18019  
Order LR18-17**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act (the "Act"), by Myles Milligan  
against Order LD18-158 dated May 14, 2018  
issued by the Director of Residential Rental  
Property.

**BEFORE THE COMMISSION**  
on Friday, the 15th day of June, 2018.

John Broderick, Commissioner  
Douglas Clow, Vice-Chair

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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 (the "Act"), by Myles Milligan against Order LD18-158 dated May 14, 2018 issued by the Director of Residential Rental Property.

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# Order

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On June 11, 2018, the Commission received a Notice of Appeal from a lessor, Myles Milligan, (the "Appellant") requesting an appeal of Order LD18-158 dated May 14, 2018 issued by the Director of Residential Rental Property (the "Director").

The matter was heard by the Director on May 3, 2018. In Order LD18-158 it states, in part:

*"AND WHEREAS a Notice of Hearing dated April 20, 2018 was sent to the lessor and the lessee advising them of a hearing scheduled for May 3, 2018 regarding the lessee's application ...*

*AND WHEREAS a hearing was held on this matter on May 3, 2018 pursuant to Section 4.(2)(d) of the **Rental of Residential Property Act, R.S.P.E.I. 1988, Cap. R-13.1, as amended.** The lessee, Mario Robichaud, attended the hearing. The lessor, Myles Milligan, informed the Officer just prior to the hearing that he was not able to participate in the hearing. The hearing proceeded in the absence of the lessor.*

...

*... The lessor has not filed a Notice of Intention to Retain Security Deposit (Form 8) and has not paid the security deposit funds in trust to the Office of the Director of Residential Rental Property*

*The Officer finds that the lessee is entitled to the return of the security deposit of \$600.00 plus interest calculated as \$23.65 for a total of \$623.65.*

**IT IS THEREFORE ORDERED THAT**

- 1. The lessor shall pay the sum of \$623.65 to the Acting Director of Residential Rental Property in trust for the lessee on or before June 8, 2018.  
(Cheque to be made payable to: The Island Regulatory and Appeals Commission)"*

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 **Act** grants a conditional right of appeal to a party of a decision or order of the Director. The Appellant did not appear or have a representative at the hearing before the Director. The Commission has disallowed the Appellant's Notice of Appeal as the statutory condition set out in Subsection 25.(1) of the **Act** was not met. 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 June 11, 2018 Notice of Appeal filed by Myles Milligan is hereby disallowed.**
2. **Therefore, Order LD18-158 issued by the Director of Residential Rental Property remains in full force and effect.**

**DATED** at Charlottetown, Prince Edward Island, this **15th** day of **June**, 2018.

**BY THE COMMISSION:**

(sgd. John Broderick)

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John Broderick, Commissioner

(sgd. Douglas Clow)

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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)