



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR18045  
Order LR18-38**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act (the "Act"), by Margaret  
Cameron against Order LD18-321 dated  
October 18, 2018 issued by the Director of  
Residential Rental Property.

**BEFORE THE COMMISSION**  
on Wednesday, the 24th day of October,  
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 Margaret Cameron against Order LD18-321 dated October 18, 2018 issued by the Director of Residential Rental Property.

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# Order

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On October 22, 2018, the Commission received a Notice of Appeal from a lessee, Margaret Cameron, (the "Appellant") requesting an appeal of Order LD18-321 dated October 18, 2018 issued by the Director of Residential Rental Property (the "Director").

The matter was heard by the Director on October 15, 2018. In Order LD18-31 it states, in part:

*"AND WHEREAS a Notice of Hearing dated October 9, 2018 was sent to the lessor and the lessee advising them of a hearing scheduled for October 15, 2018 regarding the lessee's application ...*

*AND WHEREAS a hearing was held on this matter on October 15, 2018 pursuant to Section 4.(2)(d) of the Act. The lessor attended the hearing. The Officer notes that the hearing was delayed fifteen minutes to wait for the lessee to attend, however she did not attend. After fifteen minutes, the Officer began the hearing in absence of the lessee. The Officer notes that there was no phone number on file for the lessee."*

...

**IT IS THEREFORE ORDERED THAT**

- 1. The Notice of Termination by Lessor (Form 4) dated October 1, 2018 to be effective November 1, 2018 is valid.*
- 2. The Notice of Termination by Lessor (Form 4) dated October 2, 2018 to be effective October 22, 2018 is valid.*
- 3. The lessor's Application for Earlier Termination (Form 5) of the rental agreement is approved, and the rental agreement between the parties is terminated effective October 23, 2018 at 2:00 p.m.*
- 4. The lessee shall vacate the premises on or before 2:00 p.m. on October 23, 2018.*
- 5. If the lessee fails to vacate the rental premises in accordance with paragraph 4 of this Order, then the Sheriff is directed to put the lessor in possession of the rental premises at 2:00 p.m. on Wednesday, October 24, 2018."*

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 October 22, 2018 Notice of Appeal filed by Margaret Cameron is hereby disallowed.
2. Therefore, Order LD18-321 issued by the Director of Residential Rental Property remains in full force and effect.

**DATED** at Charlottetown, Prince Edward Island, this 24th day of **October**, 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)