



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Dockets LR19072
Order LR19-44**

IN THE MATTER of an appeal filed
under Section 25 of the Rental of Residential
Property Act by Jillian Cassidy against Order
LD19-513 dated December 3, 2019 issued by
the Office of the Director of Residential Rental
Property.

BEFORE THE COMMISSION

on Tuesday, the 10th day of December, 2019.

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 filed
under Section 25 of the Rental of Residential
Property Act by Jillian Cassidy against Order
LD19-513 dated December 3, 2019 issued by
the Office of the Director of Residential
Rental Property.

Order

On December 6, 2019, the Commission received a Notice of Appeal from a lessee, Jillian Cassidy (the “Appellant”) requesting an appeal of Order LD19-513 dated December 3, 2019 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on December 2, 2019. In Order LD19-513 it states, in part:

“AND WHEREAS a Notice of Hearing dated November 25, 2019 was sent to the lessor and the lessee advising them of a hearing scheduled for December 2, 2019 regarding the lessor’s application...”

AND WHEREAS a hearing was held on this matter on December 2, 2019 pursuant to Section 4.(2)(d) of the Act. The lessor [Colonial Apartments] was represented by Brian Hooley. The lessee, Jillian Cassidy, did not attend the hearing and the hearing proceeded in her absence.”

Subsections 25(1) 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.

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 the Appellant 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 December 6, 2019 Notice of Appeal filed by Jillian Cassidy is hereby disallowed.
2. Therefore, Order LD19-513 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 10th day of **December, 2019**.

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.