



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LR20021
Order LR20-18**

IN THE MATTER of an appeal under
Section 25 of the Rental of Residential
Property Act (the "Act"), by Ann and Peter
Ansems against Order LD20-179 dated July
23, 2020 issued by the Director of Residential
Rental Property.

BEFORE THE COMMISSION
on Thursday, the 13th day of August, 2020.

M. Douglas Clow, Vice-Chair
Erin T. Mitchell, 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 (the "Act"), by Ann and Peter Ansems against Order LD20-179 dated July 23, 2020 issued by the Director of Residential Rental Property.

Order

On August 10, 2020, the Commission received a Notice of Appeal from two lessees, Ann Ansems and Peter Ansems (the "Appellants") requesting an appeal of Order LD20-179 dated July 23, 2020 issued by the Director of Residential Rental Property (the Director).

The matter was heard by the Director on July 15, 2020. In Order LD20-179 it states, in part:

"AND WHEREAS a Notice of Hearing dated June 29, 2020 was sent to the lessor and the lessees advising them of a hearing scheduled for July 15, 2020 regarding the lessor's application..."

AND WHEREAS a hearing was held on this matter on July 15, 2020 pursuant to Section 4.(2) of Act. The lessor, Janet Sturgess, participated in the hearing by telephone. The Officer attempted to contact the lessees by telephone four times between 1:00 and 1:15 p.m. on the hearing date, and left a voicemail message asking the lessees to call the Officer back immediately to participate in the hearing. When no response was received, the hearing then proceeded in the absence of the lessees."

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.

In an August 11, 2020 telephone conversation with Commission staff, the Appellant acknowledged that she was aware of the July 15, 2020 hearing.

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 August 10, 2020 Notice of Appeal filed by Ann Ansems and Peter Ansems is hereby disallowed.
2. Therefore, Order LD20-179 issued by the Director remains in full force and effect.

DATED at Charlottetown, Prince Edward Island, this 13th day of August, 2020.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

(sgd. Erin T. Mitchell)

Erin T. Mitchell, 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.