

## Introduction

- [1] On April 24, 2023 the Landlords filed a Landlord Application to Request Additional Rent Increase (Form 9) with the Residential Tenancy Office (the "Rental Office"), pursuant to subsection 50.(1) of the *Act* (the "Application"). The Landlord is seeking a rent increase for the Residential Property exceeding the allowable percentage established by subsection 49.(4) of the *Act* for 2023. The Application indicates that the current rent, proposed rent and effective date for the proposed increase is as follows:

Unit	Current Rent	Proposed Rent	Effective Date
108	\$1,616.00	\$1,665.00	August 1, 2023

- [2] On April 24, 2023 the Landlords submitted into evidence the Landlord Statement of Income and Expenses (Form 10) (the "Statement").
- [3] On July 13, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). The Landlord participated and the Tenant participated.

## Issue to be Decided

- i. Are the Landlords permitted to increase the Residential Property's rent as requested in the Application?

## Summary of the Evidence

- [4] The Landlords purchased the Residential Property in 2020. The Application includes 1-unit in a condominium building. The Landlords provided documentary evidence to support the Statement and the Application.

### Landlord's Evidence and Submissions

- [5] The Landlords disclosed their income and expenses for the Residential Property. The value of the Residential Property is \$212,984.00.

### Tenant's Evidence and Submissions

- [6] The Tenant did not dispute the Application and its 3.0% increase.

## Adjustments to the Statement

- [7] The Officer's adjustments to the income and expenses are provided below.
- [Line 1 – Rental Income]**  
The rental income for the Residential Property is \$19,312.00. The proposed increase would see the rental income increase to \$19,980.00.
  - [Line 4 – Interest Payments on First Mortgage]**  
The Landlords claim \$4,976.00 in the Statement for such expense. The Landlord testified that he has recently renewed his mortgage and the increase in the interest payments will be \$5,962.22 annually for 2023. The Officer accepts this adjustment.
  - [Line 9 – Insurance]**  
The Landlord claims \$498.00 in the Statement for insurance expenses. The Landlord testified that his insurance premium is increasing to \$524.00 for 2023. The Officer accepts this adjustment.

[8] The adjusted calculations to the Statement can be found in Appendix “A” of this decision.

## Analysis

[9] The factors for reviewing rent increases above the allowable percentage are set out in subsections 50.(3), (4) of the *Act* and section 4 of the *Residential Tenancy Regulations* (the “*Regulations*”) which state:

### **Factors**

*(3) The Director shall consider the following factors, as applicable, in deciding whether to approve an application for a rent increase under subsection (1):*

- (a) the rent history for the affected rental unit in the three years preceding the date of the application;*
- (b) a change in operating expenses and capital expenditures in the three years preceding the date of the application that the Director considers relevant and reasonable;*
- (c) the expectation of the landlord to have a reasonable return on the landlord’s capital investment;*
- (d) the expectation of the tenant that rent increases will remain within the annual guideline.*

### **Other factors**

*(4) The Director may also consider*

- (a) any other factor considered relevant by the Director; and*
- (b) any other factor prescribed in the regulations.*

### **Request for additional increase**

- 4. For the purposes of clause 50(4)(b) of the Act, the Director may also consider that the purchase of a residential property should not require an increase of rent within the first year in order to achieve a reasonable return on the landlord’s capital investment. (EC269/23).*

[10] The Officer is bound to consider the factors set out in the *Act* and the *Regulations*. What is not included in the list of factors to be considered is whether increases are warranted because the current rents are below comparable market rents, a submission frequently made by landlords. Further, the Officer does not consider the financial hardship of the tenants, a submission frequently made by tenants.

[11] With regard to sub-subsection 50.(3)(a) of the *Act* the Officer finds that the Landlord submitted into evidence the tenancy agreements for the affected rental unit for the past three years, which show the rent history.

[12] With regard to sub-subsection 50.(3)(b) of the *Act* the Officer finds that the Landlord’s operating expenses have increased over the past two years.

[13] With regard to sub-subsection 50.(3)(c) of the *Act* the Officer finds that after the adjustments, the Landlord is yielding a 4.2% return on investment. After considering the proposed increase and the adjustment to the Statement, the Landlord’s return on investment would increase to 4.1%.

- [14] With regard to sub-subsection 50.(3)(d) of the *Act* the Officer finds that the Tenant did not provide any submissions or evidence as it relates to this factor.
- [15] With regard to section 4 of the *Regulations* the Officer finds that this section does not apply to the Application.
- [16] The Officer finds that based upon all the factors set out in the *Act* and the *Regulations* that the Landlord is entitled to a rent increase. The Landlord's operating expenses have increased and with the proposed increase, the Landlord would see a reasonable return on investment. Therefore, the Application is allowed.

### Conclusion

- [17] The Application is allowed.
- [18] **The Officer notes that this decision contains sensitive information of the Landlord and that the parties are required to preserve its confidentiality pursuant to subsection 75.(3) of the *Act*.**

### IT IS THEREFORE ORDERED THAT

- A. The maximum allowable rent for the Residential Property is:

Unit	Rent	Effective Date
108	\$1,665.00	August 1, 2023

**DATED** at Charlottetown, Prince Edward Island, this 1st day of August, 2023.

(sgd.) Cody Burke

Cody Burke  
Residential Tenancy Officer

**APPENDIX "A"**  
**Revised Statement of Income & Expenses (Form 10)**

	<b>Most Recent Year</b>	<b>Proposal</b>	<b>Allowed</b>
<b>Rental Income</b>			
Income (Line 1)	\$19,312.00	\$19,980.00	\$19,980.00
Arrears (Line 4)	\$0.00	\$0.00	\$0.00
<b>Net Income (Line 5)</b>	<b>\$19,312.00</b>	<b>\$19,980.00</b>	<b>\$19,980.00</b>
<b>Expenses</b>			
1st Mortgage (Line 6)	\$4,976.00	\$5,962.22	\$5,962.22
2nd Mortgage (Line 7)	\$0.00	\$0.00	\$0.00
Fuel (Line 8)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 9)	\$0.00	\$0.00	\$0.00
Electricity (Line 10)	\$0.00	\$0.00	\$0.00
Insurance (Line 11)	\$498.00	\$524.00	\$524.00
Property Tax (Provincial) (Line 12)	\$2,803.00	\$2,803.00	\$2,803.00
Property Tax (Municipal) (Line 13)	\$0.00	\$0.00	\$0.00
Management Fee (Line 14)	\$0.00	\$0.00	\$0.00
Maintenance Fee (Line 15)	\$2,021.00	\$2,021.00	\$2,021.00
Capital Expenditures (Line 16)	\$0.00	\$0.00	\$0.00
Other (Line 17)	\$0.00	\$0.00	\$0.00
<b>Total Expenses</b>	<b><u>\$10,298.00</u></b>	<b><u>\$11,310.22</u></b>	<b><u>\$11,310.22</u></b>
<b>Annual Net Profit</b>	<b>\$9,014.00</b>	<b>\$8,669.78</b>	<b>\$8,669.78</b>
<b>Value pf Residential Property</b>	<b>\$212,984.00</b>	<b>\$212,984.00</b>	<b>\$212,984.00</b>
<b>Net Profit</b>	<b>\$9,014.00</b>	<b>\$8,669.78</b>	<b>\$8,669.78</b>
<b>Return on Capital Investment</b>	<b>4.2%</b>	<b>4.1%</b>	<b>4.1%</b>

**NOTICE**

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission (the "Commission") by serving a Notice of Appeal with the Commission and every party to this Order within **20** days of this Order. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.