

## Introduction

- [1] On June 9, 2023, the Landlords filed a Landlord Application to Request Additional Rent Increase (Form 9) with the Office of the Director of Residential Tenancy (the “Rental Office”) pursuant to subsection 50.(1) of the *Act* (the “Application”). The Landlords are seeking a rent increase for the Residential Property exceeding the allowable percentage established by subsection 49.(2) of the *Act* for 2023. The Application indicates the current rent, proposed rent, and effective date for the proposed increase are as follows:

Current Rent	Proposed Rent	Effective Date
\$1,850.00	\$1,905.00	September 1, 2023

- [2] On July 26, 2023, the Landlords submitted into evidence the Landlord Statement of Income and Expenses (Form 10) (the “Statement”).
- [3] On August 8, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). A Landlord participated in the hearing. The Tenants did not participate.

## Issue to be Decided

- i. Are the Landlords permitted to increase the rent of the Residential Property exceeding the allowable percentage as requested in the Application?

## Summary of the Evidence

- [4] The Residential Property consists of a single-family house. The Residential Property was purchased in 2021 for \$335,000.00. There has been \$321.99 of capital expenditures invested into the Residential Property since it had been purchased.
- [5] Rent for the Residential Property includes the following services: water, cooking stove, refrigerator, parking, lawn care, washer / dryer, microwave, dishwasher, dehumidifier, and heat pump. The Year 1 expenses are the actual expenses from August 2021 to July 2022. The Year 2 expenses are the actual expenses from August 2022 to July 2023. Because the Residential Property was recently purchased, the Landlords do not have three years of income / expenses to disclose.

## Adjustments to the Statement

- [6] The Officer’s adjustments to the income and expenses are provided below. The adjustments will be reflected in the Revised Statement of Income and Expenses (Form 10) and is attached as APPENDIX “A” of this decision.

### 1. [Line 1 – Rental Income]

The total rental income on the Statement for Year 2 is \$22,200.00. Line 1 of the proposed rental income is set as \$22,860.00.

### 2. [Line 5 – Second Mortgage]

The Landlords claimed \$1,684.06 in interest payments for Line 5. The second mortgage was a refinance on a separate property and a percentage of those funds were re-invested into the Residential Property. The Officer notes the documentary evidence shows that the interest on the second mortgage should be \$913.55. Line 5 is adjusted.

**3. [Line 10 and Line 11 – Provincial and Municipal Property Tax]**

The total provincial and municipal property taxes have been combined on Line 10. The Officer accepts this submission.

**4. [Line 12 – Management Fees]**

The Landlords stated the management fees for the Residential Property as \$0.00. The Landlords manage the Residential Property themselves. Subsection 1.(c) of the *Residential Tenancy Regulations* (the “*Regulations*”) state:

*“management fee” means the actual cost of the management fee or 5 per cent of the gross rental income for the previous year, whichever is the lesser.*

5% of the gross rental income for Year 2 is \$1,100.00. Line 12 is adjusted.

**5. [Line 14 - Capital Expenditures]**

The Landlords claimed \$321.99 for capital expenditures. The Officer notes this should have been divided by 5 years, as stated on page 2 of the Application. Line 14 is adjusted to \$64.40.

**6. [Value of Investment in the Property]**

The Landlords stated the value of investment in the Residential Property as \$335,771.99. The Landlords added in the cost of a home inspection (\$450.00) into the capital expenditures. The Officer notes that a home inspection is not a recognized capital expense. The Officer adjusts the value to \$335,321.99.

**Analysis**

- [7] The Officer is bound to consider the factors set out in the *Act* and the *Regulations*. The factors for reviewing rent increases above the allowable percentage are set out in subsections 50.(3) and (4) of the *Act* and section 4 of the *Regulations* which state:

*50.(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.*

*50.(4) The Director may also consider*

*(a) any other factor considered relevant by the Director; and*

*(b) any other factor prescribed in the regulations.*

*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.*

- [8] With regard to sub-subsection 50.(3)(a) of the *Act*, the Officer finds that the Landlords have provided the rent history for the past two years for the Residential Property. There has not been any rent increase to the Residential Property since the property was purchased in 2021.
- [9] With regard to sub-subsection 50.(3)(b) of the *Act*, the Officer finds that based on the adjusted Statement and the documentary evidence, the Landlords' operating expenses have increased and there have been \$321.99 in capital expenditures invested back into the Residential Property.
- [10] With regard to sub-subsection 50.(3)(c) of the *Act*, the Officer finds that the Landlords are currently operating at a Return on Investment ("ROI") of 2.4% and the proposed increase would yield an ROI of 2.6%. The Officer finds that an ROI of 2.6% to be a reasonable return on the Landlords' capital investment.
- [11] With regard to sub-subsection 50.(3)(d) of the *Act*, the Officer finds that the Tenants did not put forward any submissions regarding their expectation that the rent increase will remain within the annual guideline.
- [12] With regard to section 4 of the *Regulations* the Officer finds that this section does not apply to the Application.
- [13] The Officer finds that based upon all the factors set out in the *Act* and the *Regulations* that the Landlords are entitled to a rent increase. Therefore, the Application is allowed.

## Conclusion

- [14] The Application is allowed.
- [15] **The Officer notes that this decision contains sensitive information of the Landlords 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 monthly rent for the Residential Property is as follows:

Rent	Effective Date
\$1,905.00	September 1, 2023

**DATED** at Charlottetown, Prince Edward Island, this 25th day of August, 2023.

(sgd.) Mitchell King  
\_\_\_\_\_  
Mitchell King  
Residential Tenancy Officer

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

	<u>2022/2023</u>	<u>Proposal</u>	<u>Allowed</u>
<b><u>Income</u></b>			
Rental Income at 100% (Line 1)	\$22,200.00	\$22,860.00	\$22,860.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<b><u>Net Income before expenses</u></b> (Line 3)	<b>\$22,200.00</b>	<b>\$22,860.00</b>	<b>\$22,860.00</b>
<b><u>Expenses</u></b>			
1st Mortgage Interest (Line 4)	\$5,167.38	\$5,167.38	\$5,167.38
2nd Mortgage Interest (Line 5)	\$913.55	\$913.55	\$913.55
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$373.10	\$373.10	\$373.10
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$1,641.00	\$1,641.00	\$1,641.00
Property Tax (Provincial) (Line 10)	\$4,735.08	\$4,735.08	\$4,735.08
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$1,110.00	\$1,110.00	\$1,110.00
Maintenance Fee (Line 13)	\$0.00	\$0.00	\$0.00
Capital Expenditures (Line 14)	\$64.40	\$64.40	\$64.40
Other (Line 15)	\$0.00	\$0.00	\$0.00
<b>Total Operating Expenses</b> (Line 16)	<b>\$14,004.51</b>	<b>\$14,004.51</b>	<b>\$14,004.51</b>
<b>Net Profit or (Loss)</b> (Line 17)	<b>\$8,195.49</b>	<b>\$8,855.49</b>	<b>\$8,855.49</b>
<b>Value of Investment in Property</b>	<b>\$335,321.99</b>	<b>\$335,321.99</b>	<b>\$335,321.99</b>
<b>Operating Income</b> (Line 17)	<b>\$8,195.49</b>	<b>\$8,855.49</b>	<b>\$8,855.49</b>
<b>Return on Investment (ROI)</b>	<b>2.4%</b>	<b>2.6%</b>	<b>2.6%</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.