

Introduction

- [1] On May 30, 2023, the Landlord 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 Landlord is 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
\$879.00	\$905.37	October 1, 2023

- [2] On October 3, 2023, the Landlord submitted into evidence the Landlord Statement of Income and Expenses (Form 10) (the "Statement").
- [3] On October 17, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the "Officer"). Two Landlord Representatives participated in the hearing and the Tenant participated. The Tenant stated she was not opposed to a 3.0% rent increase. During the hearing the Representative requested that the effective date of the rent increase be amended to February 1, 2024.

Issue to be Decided

- i. Is the Landlord 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 rental unit in a four-unit apartment building with commercial spaces below (the "Building"). The Landlord stated the entire Building was purchased for \$2,075,000.00 but each of the four residential units are valued at \$152,075.00. There have been no capital expenditures invested into the Residential Property since it had been purchased.
- [5] The Landlord stated there is no data for the Year 1 expenses from January 2020 to December 2020. The Year 2 expenses are the actual expenses from January 2021 to December 2021. The Year 3 expenses are the actual expenses from January 2022 to December 2022.

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. The Landlord stated all of the expenses are calculated based on the square footage of the Residential Property vs the entire Building.

1. [Line 3 – Rental Income]

The total rental income for Year 3 is \$10,609.53. Line 3 of the proposed rental income is set as \$10,864.44.

2. [Line 4 and Line 5 – Interest Payments on First and Second Mortgages]

The Landlord stated the interest payments on the first mortgage as \$1,980.13 and on the second mortgage as \$1,028.99. The Landlord stated both of the mortgages were used for the purchase of the Building.

3. [Line 8 – Electricity]

The Landlord stated Line 8 as \$461.55. The Landlord stated this amount is apportioned to the amount of the electricity which is used by the Residential Property.

4. [Line 10 and 11 – Provincial/Municipal Property Tax]

The Landlord stated Line 10 and 11 together as \$2,124.06 for Year 3. The Officer accepts this combined submission.

5. [Line 12 and 13 – Management Fees/Maintenance]

6. The Landlord stated Line 12/13 as \$953.07 for Year 3. The Landlord did not submit any evidence of maintenance costs. Subsection 1.(c) of the *Residential Tenancy Regulations* (the “*Regulations*”) states:

“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 3 is \$530.47. Line 12 is adjusted to \$530.47.

7. [Line 15 – Other]

The Landlord stated Line 15 as \$1,116.09. The Landlord stated this amount was for snow removal.

8. [Value of Investment in the Property]

The Landlord stated the entire Building was purchased for \$2,075,000.00 but each of the four residential units are valued at \$152,075.00, based on the square footage of each of the rental units vs the entire Building. There have been no capital expenditures invested into the Residential Property since it had been purchased.

Analysis

- [7] The Officer is bound to consider the factors set out in the *Act* and the *Residential Tenancy Regulations* (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 Landlord has provided the rent history for the past two years for the Residential Property. The Landlord stated there is no data for Year 1. The last rent increase took place in April of 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 Landlord's operating expenses have increased. There have been no 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 Landlord is currently operating at a Return on Investment ("ROI") of 1.1% and the proposed increase would yield an ROI of 1.3%.
- [11] With regard to sub-subsection 50.(3)(d) of the *Act*, the Officer finds that the Tenant stated she did not oppose a 3.0% rent increase.
- [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 Landlord is 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 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 monthly rent for the Residential Property is as follows:

Rent	Effective Date
\$905.37	February 1, 2024

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

(sgd.) Mitchell King
Mitchell King
Residential Tenancy Officer

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

	<u>2022</u>	<u>Proposal</u>	<u>Allowed</u>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$10,609.53	\$10,864.44	\$10,864.44
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses (Line 3)</u>	<u>\$10,609.53</u>	<u>\$10,864.44</u>	<u>\$10,864.44</u>
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$1,980.13	\$1,980.13	\$1,980.13
2nd Mortgage Interest (Line 5)	\$1,028.99	\$1,028.99	\$1,028.99
Fuel (Line 6)	\$1,013.22	\$1,013.22	\$1,013.22
Water & Sewer (Line 7)	\$406.32	\$406.32	\$406.32
Electricity (Line 8)	\$461.55	\$461.55	\$461.55
Insurance (Line 9)	\$231.91	\$231.91	\$231.91
Property Tax (Provincial) (Line 10)	\$2,124.06	\$2,124.06	\$2,124.06
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$530.47	\$530.47	\$530.47
Maintenance Fee (Line 13)	\$0.00	\$0.00	\$0.00
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$1,116.09	\$1,116.09	\$1,116.09
<u>Total Operating Expenses (Line 16)</u>	<u>\$8,892.74</u>	<u>\$8,892.74</u>	<u>\$8,892.74</u>
Net Profit or (Loss) (Line 17)	\$1,716.79	\$1,971.70	\$1,971.70
Value of Investment in Property	\$152,075.00	\$152,075.00	\$152,075.00
Operating Income (Line 17)	\$1,716.79	\$1,971.70	\$1,971.70
Return on Investment (ROI)	1.1%	1.3%	1.3%

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.