

Introduction

- [1] On October 19, 2023, the Landlord filed two Landlord Applications to Request Additional Rent Increase (Form 9) with the Residential Tenancy Office (the “Rental Office”) pursuant to subsection 50.(1) of the *Act* (the “Applications”). The Landlord is seeking a rent increase for the Residential Property exceeding the allowable percentage established by subsection 49.(2) of the *Act*, in the amount of 3.0%.
- [2] The Applications are also seeking the 3.0% allowable rent increase for 2024, totaling a 6.0% rent increase.
- [3] The Applications disclose the current rents, proposed rents (which includes the 3.0% allowable rent increase for 2024), and effective dates for the proposed increases which are as follows:

Unit	Current Rent	Proposed Rent	Effective Date
Lower	\$1,530.00	\$1,622.00	January 18, 2024
Upper	\$2,035.00	\$2,157.00	January 18, 2024

- [4] On November 20, 2023, the Landlord submitted into evidence one Landlord Statement of Income and Expenses (Form 10) (the “Statements”).
- [5] On December 5, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). Only the Landlord participated in the hearing.
- [6] All relevant documents (including the Notice of Hearing and Evidence Package) were properly served in accordance with subsection 100.(1) of the *Act*.

Issue to be Decided

- i. Is the Landlord permitted to an additional rent increase exceeding the allowable percentage as requested in the Applications?

Summary of the Evidence

- [7] The Residential Property consists of an up and down duplex and it was purchased in 2021 for \$417,000.00. The Landlord stated the Year 1 expenses are the actual expenses from January 2021 to December 2021. The Year 2 expenses are the actual expenses from January 2022 to October 2022. The Year 3 expenses are the actual expenses from January 2023 to October 2023.

Adjustments to the Statement

- [8] 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. Some of the expenses have been taken from either 2022 or 2023, depending on the relevance of the evidence submitted.

1. [Line 3 – Rental Income]

The total rental income for 2023 will be \$42,780.00. Line 3 of the proposed rental income is set as \$45,348.00, which includes the 3.0% allowable rent increase for 2024.

2. [Line 4 – Interest on First Mortgage]

The interest on the first mortgage was \$11,218.11 in 2023. The Landlord submitted further documentary evidence showing the interest rate is now fixed and will be \$29,970.72 going forward for 2024. Line 4 is adjusted.

3. [Line 12 – Management Fees]

The Landlord stated Line 12 as \$3,921.50 for management fees. 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 2023 will be \$2,139.00. Line 12 is adjusted.

4. [Value of Investment in the Property]

The property was purchased in 2021 for \$417,000.00. The Landlord submitted a 2023 appraisal into evidence which states the value of the Residential Property as \$500,000.00. The Officer accepts the appraisal as the best evidence for the value of the investment in the property.

Analysis

[9] 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.

- [10] 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 three years for the Residential Property. There has been no rent increase at the property. This factor assists the Applications.
- [11] 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, such as the mortgage interest, fuel, electricity, property taxes, and other expenses. This factor assists the Applications.
- [12] 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 2.1% and the proposed increase, with increased expenses, which includes the 3.0% allowable rent increase for 2024, would yield an ROI of -1.1%.
- [13] With regard to sub-subsection 50.(3)(d) of the *Act*, the Officer finds that the Tenants did not have any submissions regarding the rent increase.
- [14] With regard to section 4 of the *Regulations* the Officer finds that this section does not apply to the Applications.
- [15] The Officer finds that based upon all the factors set out in the *Act* and the *Regulations* that the Landlord is entitled to an additional rent increase. Therefore, the Applications are allowed.

Conclusion

- [16] The Applications are allowed.
- [17] **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, including the 3.0% allowable rent increase for 2024, and additional rent increase, is as follows:

Unit	Rent	Effective Date
Lower	\$1,622.00	January 18, 2024
Upper	\$2,157.00	January 18, 2024

DATED at Charlottetown, Prince Edward Island, this 8th day of December, 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>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$42,780.00	\$45,348.00	\$45,348.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses</u> (Line 3)	\$42,780.00	\$45,348.00	\$45,348.00
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$11,218.11	\$29,970.72	\$29,970.72
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$3,829.83	\$3,829.83	\$3,829.83
Water & Sewer (Line 7)	\$774.80	\$774.80	\$774.80
Electricity (Line 8)	\$1,715.68	\$1,715.68	\$1,715.68
Insurance (Line 9)	\$1,814.33	\$1,814.33	\$1,814.33
Property Tax (Provincial) (Line 10)	\$2,843.00	\$2,843.00	\$2,843.00
Property Tax (Municipal) (Line 11)	\$1,904.81	\$1,904.81	\$1,904.81
Management Fee (Line 12)	\$2,139.00	\$2,139.00	\$2,139.00
Maintenance Fee (Line 13)	\$3,803.00	\$3,803.00	\$3,803.00
Capital Expenditures (Line 14)	\$228.43	\$228.43	\$228.43
Other (Line 15)	\$1,955.31	\$1,955.31	\$1,955.31
Total Operating Expenses (Line 16)	<u>\$32,226.30</u>	<u>\$50,978.91</u>	<u>\$50,978.91</u>
Net Profit or (Loss) (Line 17)	\$10,553.70	(\$5,630.91)	(\$5,630.91)
Value of Investment in Property	\$500,000.00	\$500,000.00	\$500,000.00
Operating Income (Line 17)	\$10,553.70	(\$5,630.91)	(\$5,630.91)
Return on Investment (ROI)	2.1%	-1.1%	-1.1%

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.