

Introduction

- [1] On October 4, 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 Landlords are 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%. The Application is also seeking the 3.0% allowable rent increase for 2024, totaling a 6.0% rent increase.
- [2] The Application discloses the current rents, proposed rents (which includes the 3.0% allowable rent increase for 2024), and effective dates for the proposed increases are as follows:

Unit	Current Rent	Proposed Rent	Effective Date
1	\$843.00	\$893.00	January 1, 2024
2	\$843.00	\$893.00	January 1, 2024
3	\$843.00	\$893.00	January 1, 2024
4	\$843.00	\$893.00	January 1, 2024
5	\$843.00	\$893.00	January 1, 2024
6	\$843.00	\$893.00	January 1, 2024
7	\$843.00	\$893.00	January 1, 2024

- [3] On October 4, 2023, the Landlords submitted into evidence the Landlord Statement of Income and Expenses (Form 10) (the “Statement”).
- [4] On November 23, 2023, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). Two Landlords participated in the hearing and five Tenants participated.
- [5] 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. Are the Landlords permitted to an additional rent increase exceeding the allowable percentage as requested in the Application?

Summary of the Evidence

- [6] The Residential Property consists of seven rental units and was built in 2005 for \$370,650.00. The Landlords 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 December 2022. The Year 3 expenses are the actual expenses from January 2023 to September 2023.
- [7] One Tenant provided a submission stating they did not agree with the additional rent increase. The other Tenants did not have any comments regarding the rent increase.

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.

1. [Line 3 – Rental Income]

The total rental income for 2023 will be \$70,812.00. Line 3 of the proposed rental income is set as \$75,012.00, which includes the 3.0% allowable rent increase for 2024.

2. [Line 4 – Interest Payments on the First Mortgage]

The Landlords stated the interest payments on the first mortgage in 2022 as \$7,959.00. The total interest payments for 2023 have not yet been realized. The Landlords stated the mortgage was used for building the Residential Property.

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

The Landlords stated the combined Provincial and Municipal taxes are \$6,283.00 for 2023. The Officer accepts this combined submission.

4. [Line 12 – Management Fee]

The Landlords stated the management fee as \$0.00 however they manage the property themselves. 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 \$3,540.00. Line 12 is adjusted.

5. [Line 14 – Capital Expenditures]

The Landlords stated the Capital Expenditures are \$13,373.00 for 2023, however this was the depreciation for the property and further documentary evidence submitted by the Landlords shows this should be \$1,085.00. Line 14 is adjusted.

6. [Value of Investment in the Property]

The Landlords stated the Residential Property was built in 2005 for \$360,750.00. There has been \$10,854.00 in capital expenditures invested into the Residential Property, which makes the value of investment as \$371,604.00.

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 Landlords have provided the rent history for the past three years for the Residential Property. This factor assists the Application.
- [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 Landlords' operating expenses have increased, such as fuel, insurance, and property taxes. There have been \$10,854.00 capital expenditures invested back into the Residential Property. This factor assists the Application.
- [12] 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 3.5% and the proposed increase, which includes the 3.0% allowable rent increase for 2024, would yield an ROI of 4.6%. The Officer finds this to be a reasonable return in this case.
- [13] With regard to sub-subsection 50.(3)(d) of the *Act*, the Officer finds that The last rent increase took place in January of 2023. This factor assists the Application.
- [14] With regard to section 4 of the *Regulations* the Officer finds that this section does not apply to the Application.
- [15] 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

- [16] The Application is 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
1	\$893.00	January 1, 2024
2	\$893.00	January 1, 2024
3	\$893.00	January 1, 2024
4	\$893.00	January 1, 2024
5	\$893.00	January 1, 2024
6	\$893.00	January 1, 2024
7	\$893.00	January 1, 2024

DATED at Charlottetown, Prince Edward Island, this 13th 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)	\$70,812.00	\$75,012.00	\$75,012.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses</u> (Line 3)	<u>\$70,812.00</u>	<u>\$75,012.00</u>	<u>\$75,012.00</u>
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$7,959.00	\$7,959.00	\$7,959.00
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$14,384.00	\$14,384.00	\$14,384.00
Water & Sewer (Line 7)	\$0.00	\$0.00	\$0.00
Electricity (Line 8)	\$1,100.00	\$1,100.00	\$1,100.00
Insurance (Line 9)	\$7,156.00	\$7,156.00	\$7,156.00
Property Tax (Provincial) (Line 10)	\$6,283.00	\$6,283.00	\$6,283.00
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$3,540.00	\$3,540.00	\$3,540.00
Maintenance Fee (Line 13)	\$16,241.00	\$16,241.00	\$16,241.00
Capital Expenditures (Line 14)	\$1,085.00	\$1,085.00	\$1,085.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
<u>Total Operating Expenses</u> (Line 16)	<u>\$57,748.00</u>	<u>\$57,748.00</u>	<u>\$57,748.00</u>
Net Profit or (Loss) (Line 17)	\$13,064.00	\$17,264.00	\$17,264.00
Value of Investment in Property	\$371,604.00	\$371,604.00	\$371,604.00
Operating Income (Line 17)	\$13,064.00	\$17,264.00	\$17,264.00
Return on Investment (ROI)	3.5%	4.6%	4.6%

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.