

Introduction

- [1] On October 12, 2023 the Landlord 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 Application is seeking a rent increase for the Residential Property exceeding the allowable percentage established by subsection 49.(2) of the *Act* for 2024. The Application discloses the current rent, proposed rent and effective date as follows:

Unit #	Rent Increase (%)	Effective Date
30	6.0% (3% Allowable + 3% Additional)	February 1, 2024

- [2] On November 23, 2023 the Landlord submitted into evidence the *Landlord Statement of Income and Expenses* (Form 10) (the “Statement”).
- [3] All documents (including the Notice of Hearing and Evidence Package) were properly served to the parties in accordance with subsection 100.(1) of the *Act*.
- [4] On November 30, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Landlord appeared, representing themselves. A representative of the Tenant appeared.

Issue to be Decided

- i. Is the Landlord entitled to an additional rent increase above the allowable rent increase?

Summary of the Evidence

- [5] The Residential Property was inherited by the Landlord in 1995. The Landlord submitted 35-pages of documents into evidence to support the Application and the Statement.

Landlord’s Evidence and Submissions

- [6] The Landlord testified that many repairs have been required and completed for the Residential Property. Operating expenses have continued to rise each year. The Landlord was not sure of the value of the Residential Property so provided additional evidence showing the provincial tax assessed value to assist the Application.

Tenant’s Evidence and Submissions

- [7] The Tenant testified that the Residential Property requires repairs and has had numerous issues throughout the tenancy. The cost of oil is very high and the responsibility of the Tenant. A 6% rent increase will cause financial hardship on the Tenant.

Adjustments to the Statement

- [8] The Officer’s adjustments to the Statement are provided below and reflected in the Appendix “A” of this Order.

1. [Line 3 – Net Rental Income]

The 2023 net income for the rental unit is \$10,200.00. The additional rent increase and the allowable rent increase would increase the net income for the rental unit to \$10,812.00.

2. [Value of Investment in the Property]

The Statement did not disclose a value for the Residential Property. The Landlord testified that she was not aware of the value due to it being inherited back in 1995 and no appraisal was ever complete. The Landlord provided additional documentary evidence, the provincial tax assess value. The value for the Residential Property is \$109,300.00.

The Officer permits this valuation for the purpose of the Application as there is no other valuation provided to assist the Officer in concluding a more accurate value for the Residential Property.

Analysis

- [9] The Application is made in accordance with section 75 of the *Act*, and as required by subsection 50.(1) of the *Act*. The factors for reviewing the Application's additional rent increase request are set out in subsections 50.(3) and (4) of the *Act*, along with section 4 of the *Residential Tenancy Regulations* (the "*Regulations*"). The relevant law is as follows:

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] In such applications, it is the landlord's burden to prove, on a balance of probabilities, that they are entitled to an additional rent increase above the allowable rent increase. This means the landlord must provide the decision-maker sufficiently clear, convincing and cogent evidence to establish their request.
- [11] The *Act* and the *Regulations* require the Officer to review the Application and determine if the Application meets the required factors set out in the *Act* and the *Regulations*.

- [12] With regard to clause 50.(3)(a) of the *Act* – the Landlord did not provide any documents to establish the rent for the rental unit over the past three years. However, the testimony of the parties confirms that the rent was never increased over the tenancy. The Officer concludes that the Landlord has satisfied this factor.
- [13] With regard to clause 50.(3)(b) of the *Act* – the Landlord provided invoices, receipts, and e-transfers to assist in the establishment of increased and purchased operating expenses over the past three years. The Officer concludes that there has been an increase in operating expenses namely: water, property tax and maintenance expenses. This factor assists the Application.
- [14] With regard to clause 50.(3)(c) of the *Act* – the Officer concludes that after the adjustments to the Statement, the Landlord is yielding a 2.5% return on investment. After considering the adjustments and inclusion of the allowable and additional rent increase, the Landlord's return on investment would increase to 3.1%. Such a return on an investment would be considered reasonable, and this factor assists the Application.
- [15] With regard to clause 50.(3)(d) of the *Act* – there has been no rent increase during the tenancy. The Tenant objected to the additional rent increase. The Officer concludes that because there have been no increases over the tenancy, this factor does not negatively impact the Application.
- [16] With regard to section 4 of the *Regulations* the Officer concludes that the Residential Property was not purchased in the last 12-months. Therefore, this factor does not apply to the Application.
- [17] The Officer concludes, after reviewing and considering all the factors required by the *Act* and the *Regulations* that the Landlord is entitled to an additional rent increase above the allowable rent increase. Therefore, the Application is allowed and the rent increase is set out below.

Conclusion

- [18] The Application is allowed.
- [19] **TAKE NOTE: 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*.**
- [20] The Appendix "A" of this decision is not disclosed in the Order viewable on the Rental Office's website.
- [21] **Order LD23-592 will be served to the parties by e-mail on December 14, 2023.**

IT IS THEREFORE ORDERED THAT

- A. The maximum allowable rent for the Residential Property is \$901.00 effective February 1, 2024.

DATED at Charlottetown, Prince Edward Island, this 14th day of December, 2023.

(sgd.) Cody Burke
Cody Burke
Residential Tenancy Officer

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

	Period "A"	Proposal	Allowed
Rental Income			
Income (Line 1)	\$10,200.00	\$10,812.00	\$10,812.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$10,200.00	\$10,812.00	\$10,812.00
Expenses			
1st Mortgage (Line 4)	\$0.00	\$0.00	\$0.00
2nd Mortgage (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$641.00	\$641.00	\$641.00
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$474.00	\$474.00	\$474.00
Property Tax (Provincial) (Line 10)	\$1,621.00	\$1,621.00	\$1,621.00
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$0.00	\$0.00	\$0.00
Maintenance Fee (Line 13)	\$4,694.00	\$4,694.00	\$4,694.00
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
Total Expenses	<u>\$7,430.00</u>	<u>\$7,430.00</u>	<u>\$7,430.00</u>
Annual Net Profit	\$2,770.00	\$3,382.00	\$3,382.00
Value of Investment	\$109,300.00	\$109,300.00	\$109,300.00
Net Profit	\$2,770.00	\$3,382.00	\$3,382.00
Return on Capital Investment	2.5%	3.1%	3.1%

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.