

Introduction

- [1] On September 21, 2023 the Landlord filed a *Landlord Application to Request Additional Rent Increase* (Form 9) (the “Application”) with the Residential Tenancy Office (the “Rental Office”), pursuant to subsection 50.(1) of the *Residential Tenancy Act* (the “Act”).
- [2] The Application seeks a rent increase above the annual allowable guideline established by the Director of Residential Tenancy (the “Director”), pursuant to subsection 49.(2) of the *Act* for 2024. The Application discloses the current rents, proposes rents and effective dates as listed:

Unit #	Rent Increase (%)	Effective Date
1675	6.0% (3% Allowable + 3.0% Additional)	January 1, 2024
1681	6.0% (3% Allowable + 3.0% Additional)	January 1, 2024

- [3] On December 5, 2023 the Landlord submitted into evidence the *Landlord Statement of Income and Expenses* (Form 10) (the “Statement”).
- [4] All documents (including the *Tenant Notice of Annual Allowable Rent Increases* (Form 8), the Notice of Hearing and Evidence Package) were properly served to the parties in accordance with subsection 100.(1) of the *Act*.
- [5] On December 7, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Landlord appeared, representing themselves. One of the Tenants appeared, representing themselves.

Issue to be Decided

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

Summary of the Evidence

- [6] The Residential Property was purchased in 2004. The Landlord submitted 48-pages of documents into evidence to support the Application and the Statement.

Landlord’s Evidence and Submissions

- [7] The Landlord testified that the operating expenses for the Residential Property have continued to increase. The Landlord submitted numerous invoices, receipts, bank statements and tax documents to assist with disclosing the operating expenses.

Tenant’s Evidence and Submissions

- [8] The Tenants did not submit any documents and did not submit any submissions for the Application. There were no objections as it relates to the additional rent increase.

Adjustments to the Statement

[9] The Officer's adjustments to the Statement are provided below and are reflected in Appendix "A" of this Order.

1. **[Line 3 – Net Income] \$23,100.00**

The Landlord disclosed the net rental income on the Statement, which represents the rental units' income from January 2023 to December 2023. The additional rent increase and the annual allowable increase would increase the net income to \$24,484.80.

2. **[Line 14 – Capital Expenditures] \$0.00**

The Landlord disclosed the capital expenditures to include two heat pumps and a washer machine. The Landlord did not carry the annual write-off to the 2023 period. The Officer adjusts this column to reflect the appropriate annual write-off expensed. The cost incurred for the capital expense divided by the life expectancy added together. Line 14 shall be \$227.24.

3. **[Value of the Investment in the Property] \$145,917.36**

The Landlord disclosed on the Statement that the value of the Residential Property is \$145,917.36. This value reflects the purchase price of the Residential Property.

Analysis

[10] The Application is made in accordance with section 75 of the *Act* and pursuant to subsection 50.(1). The factors are required for consideration of the additional rent increase is stated in subsections 50.(3) and (4) of the *Act*, along with section 4. of the *Residential Tenancy Regulations* (the "*Regulations*"). The prescribed 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)*

- [11] The landlord has the 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 with sufficiently clear, convincing and cogent evidence to establish their request.

The Factors

- [12] Regarding clause 50.(3)(a), the Landlord submitted into evidence an income tax document the *Statement of Real Estate Rentals*, disclosing the gross rental income for the Residential Property. The rent has not increased in the past three years.
- [13] Regarding clause 50.(3)(b), the Landlord submitted into evidence numerous documents to establish a change in the operating expenses and/or capital expenditures over the past three years to the Residential Property.
- [14] Regarding clause 50.(3)(c), the Statement's income and expenses disclose that the Landlord is yielding a 3.5% return on investment. After the adjustments to the Statement (found in Appendix "A"), and the inclusion of the annual allowable and the additional rent increase, the return on investment would increase to 4.4%.
- [15] Regarding clause 50.(3)(d), the evidence suggests that the rent has not increased over the past three years for the Residential Property. The Tenants did not object to the additional rent increase.
- [16] The Residential Property was purchased in 2004. The Residential Property does not fit into the *Regulations* additional factor for consideration.
- [17] The Officer concludes that the Landlord is entitled to an additional rent increase. The Officer comes to this conclusion after considering all the factors together. The Landlord has established that their operating costs have *changed* over the past three years. Further, the Landlord's return on investment with the additional and allowable rent increase would be yielding a reasonable return on investment. Therefore, the Application is allowed.
- [18] The Landlord is permitted to increase the rent by the annual allowable set by the Director for 2024 in the amount of 3.0% and to increase the rent by an additional 3.0% for a total rent increase of 6.0% effective January 1, 2024.

Conclusion

- [19] The Application is allowed.
- [20] **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.**
- [21] **Order LD23-601 will be served to the parties by e-mail on December 18, 2023.**

IT IS THEREFORE ORDERED THAT

A. The maximum allowable rent for the Residential property is as follows:

Unit #	Rent Increase (%)	Effective Date
1675	\$991.10	January 1, 2024
1681	\$1,049.40	January 1, 2024

DATED at Charlottetown, Prince Edward Island, this 18th 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)	\$23,100.00	\$24,484.80	\$24,484.80
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$23,100.00	\$24,484.80	\$24,484.80
Expenses			
1st Mortgage (Line 4)	\$4,669.09	\$4,669.09	\$4,669.09
2nd Mortgage (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$3,618.57	\$3,618.57	\$3,618.57
Water & Sewer (Line 7)	\$0.00	\$0.00	\$0.00
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$1,122.00	\$1,122.00	\$1,122.00
Property Tax (Provincial) (Line 10)	\$2,408.01	\$2,408.01	\$2,408.01
Property Tax (Municipal) (Line 11)	\$385.80	\$385.80	\$385.80
Management Fee (Line 12)	\$1,155.00	\$1,224.20	\$1,224.20
Maintenance Fee (Line 13)	\$4,000.00	\$4,000.00	\$4,000.00
Capital Expenditures (Line 14)	\$227.24	\$227.24	\$227.24
Other (Line 15)	\$426.00	\$426.00	\$426.00
Total Expenses	<u>\$18,011.71</u>	<u>\$18,080.91</u>	<u>\$18,080.91</u>
Annual Net Profit	\$5,088.29	\$6,403.89	\$6,403.89
Value of Investment	\$145,917.36	\$145,917.36	\$145,917.36
Net Profit	\$5,088.29	\$6,403.89	\$6,403.89
Return on Capital Investment	3.5%	4.4%	4.4%

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.