

Introduction

- [1] On October 16, 2023 the Landlords 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 guidelines established by the Director of Residential Tenancy (the “Director”), pursuant to subsection 49(2) of the *Act*. The Application discloses the current rent, proposed rent and the effective date as listed:

Unit #	Rent Increase (%)	Effective Date
115A	6.0% (3% Allowable + 3.0% Additional)	January 1, 2024

- [3] On October 16, 2023 the Landlords 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 12, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Landlords appeared, representing themselves. The Tenants did not appear, and did not have a representative at the hearing.

Issue to be Decided

- i. Are the Landlords entitled to an additional rent increase above the annual guidelines?

Summary of the Evidence

- [6] The Residential Property was purchased in 1991. The Landlords submitted 42-pages of documents into evidence to support the Application and the Statement.

Landlord’s Evidence and Submissions

- [7] The Landlords testified that the operating expenses for the Residential Property have increased over the past three years. Over the past three years, the Residential Property required maintenance, repairs and capital expenditures.

Tenant’s Evidence and Submissions

- [8] The Tenants did not submit any documents for evidence and did not submit any submissions for the Application.

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] \$11,947.00**

The Landlords disclosed the net rental income on the Statement, which represents the rental unit's income for 2023. The additional rent increase and the annual allowable increase would increase the net income to \$12,664.32.

2. **[Line 14 – Capital Expenditures] \$4,455.00**

The Landlords disclosed the capital expenditures in a listed appendix in the evidence. The list included such expenditures as windows, washing machine, work on the driveway, roof, renovations to the bathroom, etc. After the reviewing the listed items, their costs associated with the completion of the listed expenditures and the life expectancy, the Officer finds no issue with the disclosed amount.

3. **[Value of the Investment in the Property] \$201,430.00**

The Landlords disclosed on the Statement that the value of the Residential Property is \$201,430.00. This value reflects one-half of the purchase price plus capital expenditures. The Landlords halved the purchase price to reflect only the rental side of the Residential Property. The Officer accepts this valuation as the best evidence, to reflect the value for the purposes of the Application.

Analysis

[10] The Application is made in accordance with section 75 of the *Act* and is pursuant to subsection 50(1). When deliberating on the Application, the Officer must consider the factors outlined in subsections 50(3) and (4) of the *Act*, and 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 Application requires the Landlords to prove, on a balance of probabilities, that they are entitled to an additional rent increase above the annual allowable guidelines. This means that the Landlords 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 Landlords provided the rent for the Residential Property over the past three years. The last rent increase happened on January 1, 2022 and the increase was the annual allowable amount set for 2022.
- [13] Regarding clause 50(3)(b), the Landlords provided numerous documents into evidence including: invoices, receipts, and summary financial breakdowns to assist in establishing a change in the operating expenses and/or capital expenditures over the past three years.
- [14] Regarding clause 50(3)(c), the Statement's income and expenses disclose that the Landlords are yielding a 0.2% 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 0.6%.
- [15] Regarding clause 50(3)(d), the evidence suggest that the last rent increase happened January 1, 2022 by the annual allowable set for that calendar year. The Tenants did not provide any additional submissions as it relates to this factor.
- [16] The Residential Property was purchased in 1991. The Residential Property does not fit into the *Regulations* additional factor for consideration.
- [17] The Officer concludes that the Landlords are entitled to an additional rent increase. The Officer comes to this conclusion after considering all the factors together. The Landlords have established that their operating costs have *changed* over the past three years. Specifically, the Officer references an increase to the Residential Property's property tax and insurance increase. Further, the Landlords have established on the evidence that they have invested a lot of money into maintenance, repairs and capital expenditures for the Residential Property since at least 2005. The Landlord's return on investment is very low and even with the additional increase would be far below what would be expected as a *reasonable return* on investment. The factors weigh strongly in favour of the Landlord's additional rent increase. Therefore, the Application is allowed.
- [18] The Landlords are permitted to increase the rent by the annual allowable set by the Director in the amount of 3%, and the Landlords are permitted to increase the rent by an additional 3% 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 LD23-606 will be served to the parties by e-mail on December 20, 2023.**

IT IS THEREFORE ORDERED THAT

- A. The maximum allowable rent for the Residential Property is \$1,055.36 effective January 1, 2024.

DATED at Charlottetown, Prince Edward Island, this 20th 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)	\$11,947.00	\$12,664.32	\$12,664.32
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$11,947.00	\$12,664.32	\$12,664.32
Expenses			
1st Mortgage (Line 4)	\$704.00	\$704.00	\$704.00
2nd Mortgage (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$336.00	\$336.00	\$336.00
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$426.00	\$426.00	\$426.00
Property Tax (Provincial) (Line 10)	\$3,294.00	\$3,294.00	\$3,294.00
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$550.00	\$550.00	\$550.00
Maintenance Fee (Line 13)	\$1,500.00	\$1,500.00	\$1,500.00
Capital Expenditures (Line 14)	\$4,455.00	\$4,455.00	\$4,455.00
Other (Line 15)	\$276.00	\$276.00	\$276.00
Total Expenses	<u>\$11,541.00</u>	<u>\$11,541.00</u>	<u>\$11,541.00</u>
Annual Net Profit	\$406.00	\$1,123.32	\$1,123.32
Value of Investment	\$201,430.00	\$201,430.00	\$201,430.00
Net Profit	\$406.00	\$1,123.32	\$1,123.32
Return on Capital Investment	0.2%	0.6%	0.6%

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.