

Introduction

- [1] On September 26, 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 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 effective date as listed:

Unit #	Rent Increase (%)	Effective Date
81	6% (3% Allowable + 3% Additional)	January 1, 2024

- [3] On November 27, 2023 the Landlord submitted into evidence the *Landlord Statement of Income and Expenses* (Form 10) (the “Statement”).
- [4] 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*.
- [5] On December 12, 2023 a hearing was held in writing before a Residential Tenancy Officer (the “Officer”). The Landlord provided the Statement with no additional written submissions. The Tenant did not provide any documents or written submissions.
- [6] Clause 80(1) of the *Act* states:

Division 3 – Hearing

Hearing procedure

The Director may require a hearing of an application under this Act to be conducted

- (a) *orally, including by telephone, teleconference, or other electronic means which enables the parties to participate in the hearing instantaneously and simultaneously;*
- (b) *in writing; or*
- (c) *partly orally and partly in writing.*

Issue to be Decided

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

Summary of the Evidence

- [7] The Residential Property was purchased in 2011. The Landlord submitted the Application and the Statement into evidence. The Application provided additional comments relating to the increased operating costs, the lack of a return of a reasonable investment and that the rent has not increase in twelve years.
- [8] The Tenant did not provide any documents and/or 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] \$12,000.00**

The Landlord disclosed the net rental income. The additional rent increase and the annual allowable increase would increase the net rental income to \$12,720.00

2. **[Value of the investment in the property] \$140,000.00**

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 Landlord 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 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 provided in the Statement the gross and net income for the Residential Property over the past three years. The Application discloses that the last rent increase was in 2011.

- [13] Regarding clause 50(3)(b), the Landlord provided the Statement disclosing the income and expenses for the Residential Property over the past three years. During the process, the Landlord informed the Rental Office that all the income and expenses disclosed on the Statement come from disclosures made to the *Canadian Revenue Agency* for tax purposes.
- [14] Regarding clause 50(3)(c), the Statement's income and expenses disclose that the Landlord is yielding a 0.4% 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 0.9%.
- [15] Regarding clause 50(3)(d), the Application states that the last rent increases happened in 2011.
- [16] The Residential Property was purchased in 2011 and therefore additional factor set out in the *Regulations* is not applicable.
- [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 its operating costs have *changed* over the past three years. Specifically, the Officer references an increase in interest, insurance, and general maintenance and snow removal. Further, the Landlord has established that they are not seeing a reasonable return on their investment. The factors weigh strongly in favour of the Landlord's additional rent increase. Therefore, the Application is allowed.
- [18] The Landlord is permitted to increase the rent by the annual allowable set by the Director in the amount of 3% and the Landlord is permitted to increase the rent by an additional 3% for a total rent increase of 6% 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- 609 will be served to the parties by e-mail on December 21, 2023.**

IT IS THEREFORE ORDERED THAT

- A. The maximum allowable rent for the Residential Property is \$1,060.00 effective January 1, 2024.

DATED at Charlottetown, Prince Edward Island, this 21st 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)	\$12,000.00	\$12,720.00	\$12,720.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$12,000.00	\$12,720.00	\$12,720.00
Expenses			
1st Mortgage (Line 4)	\$4,965.38	\$4,965.38	\$4,965.38
Bank fees (Line 5)	\$47.60	\$47.60	\$47.60
Pest Control (Line 6)	\$558.92	\$558.92	\$558.92
Water & Sewer (Line 7)	\$588.72	\$588.72	\$588.72
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$1,346.00	\$1,346.00	\$1,346.00
Property Tax (Provincial) (Line 10)	\$1,854.02	\$1,854.02	\$1,854.02
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)	\$414.81	\$414.81	\$414.81
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$1,662.50	\$1,662.50	\$1,662.50
Total Expenses	<u>\$11,437.95</u>	<u>\$11,437.95</u>	<u>\$11,437.95</u>
Annual Net Profit	\$562.05	\$1,282.05	\$1,282.05
Value of Investment	\$140,000.00	\$140,000.00	\$140,000.00
Net Profit	\$562.05	\$1,282.05	\$1,282.05
Return on Capital Investment	0.4%	0.9%	0.9%

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.