

## Introduction

- [1] On October 31, 2023 the Landlord (9) nine *Landlord Application to Request Additional Rent Increase* (Form 9s) (the “Applications”) with the Residential Tenancy Office (the “Rental Office”), pursuant to subsection 50(1) of the *Residential Tenancy Act* (the “Act”).
- [2] The Applications seek 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 Applications disclose the current rents, proposed rents and the effective dates as listed:

| Unit # | Current Rent | Proposed Rent | Effective Date   |
|--------|--------------|---------------|------------------|
| 1      | \$2,000.00   | \$2,120.00    | February 1, 2024 |
| 2      | \$2,040.00   | \$2,162.00    | February 1, 2024 |
| 3      | \$1,664.00   | \$1,764.00    | February 1, 2024 |
| 4      | \$2,040.00   | \$2,162.00    | February 1, 2024 |
| 5      | \$2,273.00   | \$2,409.00    | February 1, 2024 |
| 6      | \$1,550.00   | \$1,643.00    | February 1, 2024 |
| 7      | \$1,530.00   | \$1,622.00    | February 1, 2024 |
| 8      | \$1,292.00   | \$1,370.00    | February 1, 2024 |
| 9      | \$1,908.00   | \$2,022.00    | February 1, 2024 |

- [3] On October 31, 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 19, 2023 a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Representatives appeared, representing the Landlord. One of the Tenants appeared, representing themselves.

## Issue to be Decided

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

## Summary of the Evidence

- [6] The Landlord submitted 58-pages of documents into evidence to support the Applications and the Statement.

### Landlord’s Evidence and Submissions

- [7] The Representatives testified that expenses for the Residential Property have increased over the past three years and rents have not increased to keep up with the rise in expenses. The Representatives testified that the Residential Property is a historical or heritage building which presents unique and expense challenges when it comes to maintenance and renovations. The Representatives testified that the Landlord is entitled to a reasonable return on investment.

### Tenants’ Evidence and Submissions

- [8] The Tenants did not provide any documents or submissions into evidence. However, the Tenant who appeared, testified that she had some maintenance concerns.

## Adjustments to the Statement

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

1. **[Line 1 – Rental income] \$195,158.00**

The Landlord disclosed the income for the Residential Property on the Statement. The additional rent increase would increase the income to \$207,864.00.

2. **[Value of investment in the property] \$2,100,000.00**

The value of the investment in the property is \$2,100,000.00 which represents a 2020 appraisal completed on the Residential Property.

## 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.

**Factors**

- [12] Regarding clause 50(3)(a), the Landlord provided the rents for the Residential Property over the past three years.
- [13] Regarding clause 50(3)(b), the Landlord provided numerous documents into evidence including: invoices, receipts and summary financial statements to assist in establishing a change in operating expenses over the past three years.
- [14] Regarding clause 50(3)(c), the Statement's income and expenses disclose that the Landlord currently yields a 1.3% 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 yield a 1.9% return.
- [15] Regarding clause 50(3)(d), the evidence establishes that the last rent increases happened in 2018, 2022 and 2023 depending on the rental unit.
- [16] The Residential Property was not purchased in the past 12 months. 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 its operating costs have *changed* over the past three years (disclosed in the Statement). Specifically, the Officer references an increase in fuel, property tax and maintenance expenses. Further, with an additional increase, the Landlord would see a 1.9% return on investment, below what is considered a reasonable return for rental property. The factors weigh in favour of the Landlord's additional rent increase. Therefore, the Applications are allowed.
- [18] The Landlord is permitted to increase the rents 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% on the effective dates set below. A total rent increase of 6% is allowed.

**Conclusion**

- [19] The Applications are 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 LD24-008 will be served to the parties by e-mail on January 9, 2024.**

**IT IS THEREFORE ORDERED THAT**

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

| Unit # | New Rent (6%) | Effective Date   |
|--------|---------------|------------------|
| 1      | \$2,120.00    | February 1, 2024 |
| 2      | \$2,162.00    | February 1, 2024 |
| 3      | \$1,764.00    | February 1, 2024 |
| 4      | \$2,162.00    | February 1, 2024 |
| 5      | \$2,409.00    | February 1, 2024 |
| 6      | \$1,643.00    | February 1, 2024 |
| 7      | \$1,622.00    | February 1, 2024 |
| 8      | \$1,370.00    | February 1, 2024 |
| 9      | \$2,022.00    | February 1, 2024 |

**DATED** at Charlottetown, Prince Edward Island, this 9th day of January, 2024.

(sgd.) Cody Burke

Cody Burke  
Residential Tenancy Officer

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

|                                     | <b>Period "A"</b>          | <b>Proposal</b>            | <b>Allowed</b>             |
|-------------------------------------|----------------------------|----------------------------|----------------------------|
| <b>Rental Income</b>                |                            |                            |                            |
| Income (Line 1)                     | \$195,158.00               | \$207,864.00               | \$207,864.00               |
| Arrears (Line 2)                    | (\$408.00)                 | \$0.00                     | \$0.00                     |
| <b>Net Income (Line 3)</b>          | <b>\$194,750.00</b>        | <b>\$207,864.00</b>        | <b>\$207,864.00</b>        |
| <b>Expenses</b>                     |                            |                            |                            |
| 1st Mortgage (Line 4)               | \$0.00                     | \$0.00                     | \$0.00                     |
| 2nd Mortgage (Line 5)               | \$0.00                     | \$0.00                     | \$0.00                     |
| Fuel (Line 6)                       | \$16,819.00                | \$16,819.00                | \$16,819.00                |
| Water & Sewer (Line 7)              | \$1,592.00                 | \$1,592.00                 | \$1,592.00                 |
| Electricity (Line 8)                | \$1,576.00                 | \$1,576.00                 | \$1,576.00                 |
| Insurance (Line 9)                  | \$2,784.00                 | \$2,784.00                 | \$2,784.00                 |
| Property Tax (Provincial) (Line 10) | \$13,532.00                | \$13,532.00                | \$13,532.00                |
| Property Tax (Municipal) (Line 11)  | \$0.00                     | \$0.00                     | \$0.00                     |
| Management Fee (Line 12)            | \$9,738.00                 | \$9,738.00                 | \$9,738.00                 |
| Maintenance Fee (Line 13)           | \$116,744.00               | \$116,744.00               | \$116,744.00               |
| Capital Expenditures (Line 14)      | \$0.00                     | \$0.00                     | \$0.00                     |
| Other (Line 15)                     | \$5,585.00                 | \$5,585.00                 | \$5,585.00                 |
| <b>Total Expenses</b>               | <b><u>\$168,370.00</u></b> | <b><u>\$168,370.00</u></b> | <b><u>\$168,370.00</u></b> |
| <b>Annual Net Profit</b>            | <b>\$26,380.00</b>         | <b>\$39,494.00</b>         | <b>\$39,494.00</b>         |
| <b>Value of Investment</b>          | <b>\$2,100,000.00</b>      | <b>\$2,100,000.00</b>      | <b>\$2,100,000.00</b>      |
| <b>Net Profit</b>                   | <b>\$26,380.00</b>         | <b>\$39,494.00</b>         | <b>\$39,494.00</b>         |
| <b>Return on Capital Investment</b> | <b>1.3%</b>                | <b>1.9%</b>                | <b>1.9%</b>                |

**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.