

Introduction

- [1] On October 6, 2023 the Landlords filed (4) four *Landlord Application to Request Additional Rent Increase* (Form 9s) (the “Applications”) with the Residential Tenancy Office (the “Rental Office”). The Applications are 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	\$675.00	\$715.00	February 1, 2024
2	\$725.00	\$754.00	February 1, 2024
3	\$600.00	\$636.00	February 1, 2024
4	\$700.00	\$742.00	February 1, 2024

- [3] On December 3, 2023 the Landlords 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 January 5, 2024 a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Landlord appeared, representing the Landlords. None of the Tenants appeared.

Issue to be Decided

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

Summary of the Evidence

- [6] The Landlords submitted 9-pages of documents into evidence to support the Applications and the Statement.

Landlords’ Evidence and Submissions

- [7] The Landlord testified that expenses for the Residential Property have increased over the past three years. Further, the Residential Property has not had a rent increase since 2016.

Tenants’ Evidence and Submissions

- [8] The Tenants did not provide any documents or submissions into evidence.

Adjustments to the Statement

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

1. [Line 1 – Rental income] \$32,400.00

The Landlords disclosed the income for the Residential Property on the Statement. The additional rent increase would increase the income to \$34,170.00.

2. **[Value of investment in the property] \$431,000.00**

The value of the investment in the property is \$431,000.00 which represents a market appraisal from the bank in June 2021.

Analysis

- [10] The Applications are made in accordance with section 75 of the Act and is pursuant to subsection 50(1). When deliberating on the Applications, 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 Applications 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 Landlords provided the rents for the Residential Property and that there have been no changes in rents since 2016.
- [13] Regarding clause 50(3)(b), the Landlords provided documents into evidence 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 expense disclose that the Landlords currently yields a 2.4% 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 yield a 2.8% return.

- [15] Regarding clause 50(3)(d), the evidence establishes that the last rent increases happened in 2016.
- [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 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 its operating costs have *changed* over the past three years (disclosed in the Statement). Specifically, the Officer references an increase in fuel and property taxes. Further, with an additional rent increase, the Landlords would see a 2.8% return on investment. Therefore, the Applications are allowed.
- [18] The Landlords are permitted to increase the rents by the annual allowable set by the Director in the amount of 3% and the Landlords are permitted to increase the rents 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 LD24-017 will be served to the parties by e-mail on January 17, 2024.**

IT IS THEREFORE ORDERED THAT

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

Unit #	New Rent	Effective Date
1	\$715.00	February 1, 2024
2	\$754.00	February 1, 2024
3	\$636.00	February 1, 2024
4	\$742.00	February 1, 2024

DATED at Charlottetown, Prince Edward Island, this 17th day of January, 2024.

(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)	\$32,400.00	\$34,170.00	\$34,170.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$32,400.00	\$34,170.00	\$34,170.00
Expenses			
1st Mortgage (Line 4)	\$4,881.23	\$4,881.23	\$4,881.23
2nd Mortgage (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$6,819.81	\$6,819.81	\$6,819.81
Water & Sewer (Line 7)	\$1,261.12	\$1,261.12	\$1,261.12
Electricity (Line 8)	\$658.00	\$658.00	\$658.00
Insurance (Line 9)	\$1,248.00	\$1,248.00	\$1,248.00
Property Tax (Provincial) (Line 10)	\$4,655.00	\$4,655.00	\$4,655.00
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)	\$630.00	\$630.00	\$630.00
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$2,078.00	\$2,078.00	\$2,078.00
Total Expenses	<u>\$22,231.16</u>	<u>\$22,231.16</u>	<u>\$22,231.16</u>
Annual Net Profit	\$10,168.84	\$11,938.84	\$11,938.84
Value of Investment	\$431,000.00	\$431,000.00	\$431,000.00
Net Profit	\$10,168.84	\$11,938.84	\$11,938.84
Return on Capital Investment	2.4%	2.8%	2.8%

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.