

Introduction

- [1] On November 8, 2023, the Landlord filed two *Landlord Applications to Request Additional Rent Increase* (Form 9) (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 rent increases 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 Applications disclose the current rents, proposed rents, and effective dates as listed:

Unit #	Current Rent	Rent Increase	Effective Date
2	\$1,245.54	\$1,320.27	February 1, 2024
4	\$1,254.54	\$1,329.81	February 1, 2024

- [3] On December 18, 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 January 5, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). The Landlord and a Landlord witness participated. No Tenants participated.

Issue to be Decided

- i. Is the Landlord entitled to an additional rent increase above the annual allowable rent increase for 2024?

Summary of the Evidence

Landlord’s Evidence and Submissions

- [6] The Residential Property was built in 2013 and over the past several years the operating expenses for the Residential Property have continued to increase. The Landlord submitted numerous bills, invoices, and tax documents to assist with disclosing the operating expenses.

Tenants’ Evidence and Submissions

- [7] The Tenants did not submit any evidence or participate in the hearing.

Adjustments to the Statement

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

1. [Line 3 – Net Income]

The Landlord disclosed the net rental income on the Statement, which represents the rental units’ income from January 2022 to December 2022 as \$29,786.00. The additional rent increase and the annual allowable increase would increase the net income to \$31,800.00.

2. **[Line 9 – Insurance]**

The Landlord disclosed the insurance expense as \$2,321.76, however the documentary evidence shows this should be \$2,803.00. Line 9 is adjusted.

3. **[Line 10 – Provincial Property Tax]**

The Landlord disclosed the Provincial Property Tax as \$4,219.00, however the documentary evidence shows this should be \$3,793.00. Line 10 is adjusted.

4. **[Value of the Investment in the Property]**

The Landlord disclosed on the Statement that the value of the Residential Property is \$325,201.12. This value reflects the build price of the Residential Property. There have been no capital expenditures invested back into the Residential Property.

Analysis

- [9] The Applications are 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 are stated in subsections 50.(3) and (4) of the *Act*, along with section 4. of the *Residential Tenancy Regulations* (the “*Regulations*”). The factors are as follows:

Factors

50.(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

50.(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.*

- [10] 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 and convincing evidence to establish their request.

The Factors

- [11] Regarding clause 50.(3)(a), the Landlord submitted into evidence documents disclosing the rent history for the Residential Property for the past three years. The last rent increase was in 2022.
- [12] Regarding clause 50.(3)(b), the Landlord submitted into evidence numerous documents to establish a change in the operating expenses over the past three years to the Residential Property, such as interest payments, insurance, and taxes.
- [13] Regarding clause 50.(3)(c), the Statement's income and expenses disclose that the Landlord is yielding a -0.8% 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 -0.2%.
- [14] Regarding clause 50.(3)(d), the evidence establishes that the rent was increased in 2022 and the Tenants did not submit any evidence regarding the rent increases.
- [15] The Residential Property was built in 2013. The Residential Property does not fit into the *Regulations* additional factor for consideration.
- [16] The Officer concludes that the Landlord is entitled to an additional rent increase for 2024. 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 Applications are allowed.
- [17] The Landlord is permitted to increase the rent by the annual allowable set by the Director for 2024 in the amount of 3% and the Landlord is entitled to increase the rent by an additional 3% for a total of 6%, effective February 1, 2024.

Conclusion

- [18] The Applications are allowed.
- [19] **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.**

IT IS THEREFORE ORDERED THAT

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

Unit #	Rent	Effective Date
2	\$1,320.00	February 1, 2024
4	\$1,330.00	February 1, 2024

DATED at Charlottetown, Prince Edward Island, this 18th day of January, 2024.

(sgd.) Mitchell King
Mitchell King
Residential Tenancy Officer

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

	<u>Year 1</u>	<u>Proposal</u>	<u>Allowed</u>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$29,786.00	\$31,800.00	\$31,800.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses (Line 3)</u>	<u>\$29,786.00</u>	<u>\$31,800.00</u>	<u>\$31,800.00</u>
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$6,650.94	\$6,650.94	\$6,650.94
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$800.00	\$800.00	\$800.00
Electricity (Line 8)	\$7,742.35	\$7,742.35	\$7,742.35
Insurance (Line 9)	\$2,803.00	\$2,803.00	\$2,803.00
Property Tax (Provincial) (Line 10)	\$3,793.00	\$3,793.00	\$3,793.00
Property Tax (Municipal) (Line 11)	\$2,086.15	\$2,086.15	\$2,086.15
Management Fee (Line 12)	\$0.00	\$0.00	\$0.00
Maintenance Fee (Line 13)	\$8,543.10	\$8,543.10	\$8,543.10
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
<u>Total Operating Expenses (Line 16)</u>	<u>\$32,418.54</u>	<u>\$32,418.54</u>	<u>\$32,418.54</u>
Net Profit or (Loss) (Line 17)	(\$2,632.54)	(\$618.54)	(\$618.54)
Value of Investment in Property	\$325,201.12	\$325,201.12	\$325,201.12
Operating Income (Line 17)	(\$2,632.54)	(\$618.54)	(\$618.54)
Return on Investment (ROI)	-0.8%	-0.2%	-0.2%

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.