

Introduction

- [1] On December 14, 2023, the Landlords submitted 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:

2024 rent	2025 rent	2026 rent
Effective March 1, 2024	Effective March 1, 2025	Effective March 1, 2026
Current rent + 3% allowable + \$33.33 additional	2024 rent + 2025 allowable + \$33.33 additional	2025 rent + 2026 allowable + \$33.33 additional
\$1,177.00	To be calculated in 2025	To be calculated in 2026

- [3] On January 16, 2024, 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 January 30, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). One of the Landlords and the Tenant 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 82-pages of documents into evidence to support the Application and the Statement.

Landlords’ Evidence and Submissions

- [7] The Landlord testified that expenses for the Residential Property have been increasing and rent has not increased to keep up with the rise in expenses. The Landlord stated the rent increase is also needed to do work on the property.

Tenants’ Evidence and Submissions

- [8] The Tenant had no position regarding the rent increase and did not submit any evidence.

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. The Officer notes that the rental unit is one half of a duplex. The Landlord provided the rental income and expenses for both sides of the duplex combined. The Officer will adjust the Appendix "A" to reflect the rental income of the rental unit and half of the expenses of the duplex, as the Landlord stated the expenses are shared between both sides of the duplex.

1. **[Line 1 – Rental income]**

The Rental income is adjusted to \$13,332.00. The additional rent increase would increase the rental income to \$14,932.00.

2. **[Line 4 – 1st Mortgage Interest]**

Line 4 is adjusted to \$1,867.00.

3. **[Line 6 – Rental income]**

Line 6 is adjusted to \$180.00.

4. **[Line 7 – Water and Sewer]**

Line 7 is adjusted to \$398.00.

5. **[Line 9 – Insurance]**

Insurance is adjusted to \$980.00.

6. **[Lines 10/11 – Property Taxes]**

The property taxes are adjusted to \$2,453.00.

7. **[Line 12 – Management Fees]**

The Landlords manage the property themselves but listed Line 12 as \$0.00. Management fees are capped at 5.0% of the gross rental income pursuant to subsection 1(c) of the *Residential Tenancy Act Regulations* (the "Regulations"). The management fees are adjusted to \$666.00.

8. **[Line 13 – Maintenance Fee]**

Line 13 is adjusted to \$457.00.

9. **[Line 14 – Capital Expenditures]**

Line 14 is adjusted to \$367.00.

10. **[Line 15 – Other]**

Line 15 is adjusted to \$450.00. This includes snow removal and grass cutting.

11. [Value of investment in the property]

The Landlords listed the value of the investment in the property as \$268,421.00. The documentary evidence shows this should be the 2018 purchase price of \$260,000.00 plus the capital expenses (\$5,312.00 + \$6,109.00) / divided by 2 = \$135,711.00.

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 *Regulation*. 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 and convincing evidence to establish their request.

Factors

- [12] Regarding clause 50(3)(a), the Landlords provided the rents for the Residential Property over the past three years.
- [13] Regarding clause 50(3)(b), the Landlords 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 Landlords currently yield a 4.1% 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 of 9%, the return on investment would yield a 5.2% return.
- [15] Regarding clause 50(3)(d), the evidence establishes that the last additional allowed rent increase was on January 1, 2022.
- [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 their operating costs have *changed* over the past three years (disclosed in the Statement). Specifically, the Officer references an increase in insurance, snow clearing, and grass cutting expenses. Further, with an additional 9% increase, the Landlord would see a 5.1% return on investment, below what is considered a reasonable return for rental property. The factors weigh in favour of the Landlords' 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 (3% for 2024 and TBD for 2025 and 2026) and are permitted to increase the rent by an additional 3% per year for three years on the effective dates set below. A total above allowable rent increase of 9% of the current rent of \$1,111.00 (\$100.00) is allowed and to be phased in as \$33.33 per year for three years.
- [19] Subsections 50(6) and (7) state:

Director's powers

- (6) *Subject to subsection (7), in considering an application under this section, the Director may*
- (a) *grant the application, in full or in part;*
 - (b) *refuse the application;*
 - (c) *order that the increase granted be phased in over a period of time; or*
 - (d) *order that the effective date of the increase granted is conditional upon the landlord's compliance with an order of the Director respecting the residential property*

Limitation on increase

- (7) *Where the Director grants an application under subsection (6) or orders that the increase granted be phased in over a period of time, the amount of the increase in rent in a calendar year shall not exceed 3 per cent in addition to the maximum percentage increase permitted under section 49.*

- [20] When annual additional increases under this Order total \$100.00 the Landlords may not implement more additional rent increases without a further Order of the Director.

Conclusion

- [21] The Application is allowed.
- [22] **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:

2024 rent	2025 rent	2026 rent
Effective March 1, 2024	Effective March 1, 2025	Effective March 1, 2026
Current rent + 3% allowable + \$33.33 additional	2024 rent + 2025 allowable + \$33.33 additional	2025 rent + 2026 allowable + \$33.33 additional
\$1,177.00	To be calculated in 2025	To be calculated in 2026

DATED at Charlottetown, Prince Edward Island, this 12th day of February, 2024.

(sgd.) Mitchell King
Mitchell King
Residential Tenancy Officer

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

	<u>2023</u>	<u>Proposal</u>	<u>Allowed</u>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$13,332.00	\$14,932.00	\$14,932.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses</u> (Line 3)	\$13,332.00	\$14,932.00	\$14,932.00
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$1,867.00	\$1,867.00	\$1,867.00
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$180.00	\$180.00	\$180.00
Water & Sewer (Line 7)	\$398.00	\$398.00	\$398.00
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$980.00	\$980.00	\$980.00
Property Tax (Provincial) (Line 10)	\$2,453.00	\$2,453.00	\$2,453.00
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$666.00	\$666.00	\$666.00
Maintenance Fee (Line 13)	\$457.00	\$457.00	\$457.00
Capital Expenditures (Line 14)	\$367.00	\$367.00	\$367.00
Other (Line 15)	\$450.00	\$450.00	\$450.00
<u>Total Operating Expenses</u> (Line 16)	<u>\$7,818.00</u>	<u>\$7,818.00</u>	<u>\$7,818.00</u>
Net Profit or (Loss) (Line 17)	\$5,514.00	\$7,114.00	\$7,114.00
Value of Investment in Property	\$135,711.00	\$135,711.00	\$135,711.00
Operating Income (Line 17)	\$5,514.00	\$7,114.00	\$7,114.00
Return on Investment (ROI)	4.1%	5.2%	5.2%

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.