

Introduction

- [1] On October 11, 2023, the Landlord submitted 3 *Landlord Applications 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:

<u>Unit</u>	<u>Current Rent</u>	<u>Proposed Rent</u>	<u>Effective Date</u>
1	\$650.00	\$689.00	January 1, 2024
2	\$661.35	\$701.03	January 1, 2024
3	\$620.01	\$657.21	January 1, 2024

- [3] On December 1, 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 February 1, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). A Landlord Representative appeared, representing the Landlord. Tenants from two units 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 27 pages of documents into evidence to support the Applications and the Statement.

Landlord’s Evidence and Submissions

- [7] The Representative testified that expenses for the Residential Property have been increasing and rents have not increased to keep up with the rise in expenses. Some of the specific expenses which have increased are oil and maintenance costs, and the Landlord is currently operating at a loss. In response to concerns about some of the stated expenses from the Tenant in unit 3, the Representative stated the Officer could remove the expenses regarding repairs to unit 3, as the Representative could not verify the expenses at the hearing.

Tenants’ Evidence and Submissions

- [8] The Tenant in unit 3 questioned some of the expenses for repairs to his rental unit as the expenses appeared higher than they should be.

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]**

The Landlord disclosed the rental income for the Residential Property on the Statement as \$23,176.00. The additional rent increase would increase the rental income to \$24,564.00.

2. **[Line 12 – Management Fees]**

The Landlord listed Line 12 as \$1,578.00. Management fees are to be the lesser of the actual expense or 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 5.0% of the gross rental income which is \$1,158.00.

3. **[Line 13 – Maintenance Fees]**

The Landlord listed Line 13 as \$7,620.00, however one of the Tenants disputed some of the expenses which were listed. The Representative stated to remove those expenses from the Form 10. The Officer removes \$4,672.88 and Line 13 is adjusted to \$2,947.12.

4. **[Value of investment in the property]**

The value of the investment in the property is \$270,015.00 which represents the 2021 purchase price. No capital expenses have been added.

Analysis

[10] The Applications are made in accordance with section 75 of the *Act* and are 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 *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 require 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 and convincing evidence to establish their request.

Factors

- [12] Regarding clause 50(3)(a), the Landlord provided the rents for the Residential Property over the past two years. The Landlord did not have the Year 3 rents or expenses available as the property was purchased in 2021.
- [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 two years.
- [14] Regarding clause 50(3)(c), the Statement's income and expenses disclose that the Landlord currently yields a 0.1% 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, the return on investment would yield a 0.6% return.
- [15] Regarding clause 50(3)(d), the evidence establishes that the last rent increases were in January 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 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 two years (disclosed in the Statement). Specifically, the Officer references an increase in fuel and maintenance expenses. Further, with an additional increase, the Landlord would see a 0.6% 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% for 2024 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.**

IT IS THEREFORE ORDERED THAT

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

<u>Unit</u>	<u>Proposed Rent</u>	<u>Effective Date</u>
1	\$689.00	March 1, 2024
2	\$701.03	March 1, 2024
3	\$657.21	March 1, 2024

DATED at Charlottetown, Prince Edward Island, this 16th day of February, 2024.

(sgd.) Mitchell King

Mitchell King
Residential Tenancy Officer

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

	<u>2022/2023</u>	<u>Proposal</u>	<u>Allowed</u>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$23,176.00	\$24,564.00	\$24,564.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses</u> (Line 3)	\$23,176.00	\$24,564.00	\$24,564.00
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$4,963.00	\$4,963.00	\$4,963.00
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$7,964.00	\$7,964.00	\$7,964.00
Water & Sewer (Line 7)	\$480.00	\$480.00	\$480.00
Electricity (Line 8)	\$2,138.00	\$2,138.00	\$2,138.00
Insurance (Line 9)	\$1,014.00	\$1,014.00	\$1,014.00
Property Tax (Provincial) (Line 10)	\$2,228.00	\$2,228.00	\$2,228.00
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$1,158.00	\$1,158.00	\$1,158.00
Maintenance Fee (Line 13)	\$2,947.12	\$2,947.12	\$2,947.12
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
<u>Total Operating Expenses</u> (Line 16)	\$22,892.12	\$22,892.12	\$22,892.12
Net Profit or (Loss) (Line 17)	\$283.88	\$1,671.88	\$1,671.88
Value of Investment in Property	\$270,015.00	\$270,015.00	\$270,015.00
Operating Income (Line 17)	\$283.88	\$1,671.88	\$1,671.88
Return on Investment (ROI)	0.1%	0.6%	0.6%

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.