

Introduction

- [1] On December 21, 2023 the Landlords filed a *Landlord Application to Request Additional Rent Increase* (Form 9) (the “Application”) with the Residential Tenancy Office (the “Rental Office”), pursuant to clause 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 clause 49(2) of the *Act*. The Application discloses the current rent, proposed rent and the effective date as listed below.

Unit #	Current Rent	Proposed Rent	Effective Date
6A	\$1,130.00	\$1,198.00	January 1, 2024

- [3] On January 22, 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 clause 100(1) of the *Act*.
- [5] On February 8, 2024 a teleconference hearing was held at 9:00 a.m. before a Residential Tenancy Officer (the “Officer”). The Landlord appeared, representing themselves. The Tenants did not appear and did not have representation.

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 83-pages of documents into evidence to support and assist the Application and the Statement. The Rental Unit is one-half of a side-by-side duplex (the “Residential Property”).

Landlords’ Evidence and Submissions

- [7] The Landlord testified that the Rental Unit is operating at a loss because expenses have continued to increase. The Landlord testified that the Rental Unit is not yielding a reasonable return on investment. The Landlord testified that the Statement represents half of the total expenses for the Residential Property.

Tenants’ Evidence and Submissions

- [8] The Tenants did not provide any evidence and did not provide any submissions for the Application.

Adjustments to the Statement

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

1. **[Line 1 – Rental Income] \$13,560.00**

The additional rent increase would increase the rental income to \$14,376.00.

2. **[Line 14 – Capital Expenditures] \$3,206.13**

The Landlord disclosed \$3,206.13 for capital expenditures which include \$8,000.00 for furniture, fixtures and appliances. Further, \$170,000.00 for the depreciation of the Residential Property. The Officer notes that clause 5(b) of the *Residential Tenancy Regulations* (the “*Regulations*”) define “operating costs” as *excluding depreciation costs*.

The Officer adjusts Line 14 to reflect \$8,000.00 over the expected life of (10) ten years for an annual write-off of \$800.00

3. **[Value of the investment of the property] \$170,000.00**

The value of the investment in the property is \$170,000.00 which is one-half of the purchase price in 2017.

Analysis

- [10] The Application is made in accordance with section 75 of the *Act* and is pursuant to clause 50(1) of the *Act*. When deliberating on the Application, the Officer must consider the factors outlined in clauses 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 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 Landlord must provide the decision-maker with sufficiently clear, convincing and cogent evidence to establish their request.

The Factors

- [12] Regarding clause 50(3)(a), the Landlords provided the rents for the past three years.

- [13] Regarding clause 50(3)(b), the Landlords provided documents into evidence to assist in establishing a change in the operating expenses in the Rental Unit over the past three years.
- [14] Regarding clause 50(3)(c), the Statement's income and expenses disclose that the Landlords are currently not making a 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 still not be positive.
- [15] Regarding clause 50(3)(d), the evidence establishes that the last rent increase happened in 2021 and no additional rent increased occurred.
- [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 interest payments, insurance and maintenance expenses. Further, the Landlords have established that the Landlords are not making a reasonable return on their investment. 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 in the amount of 3% and the Landlords are permitted to increase the rent by an additional 3% on the effective date set below. A total rent increase of 6% is allowed.

Conclusion

- [19] The Application is 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 Rental Unit is as follows:

Unit #	New Rent (6%)	Effective Date
6A	\$1,198.00	March 1, 2024

DATED at Charlottetown, Prince Edward Island, this 26th day of February, 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)	\$13,560.00	\$14,376.00	\$14,376.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$13,560.00	\$14,376.00	\$14,376.00
Expenses			
1st Mortgage (Line 4)	\$9,153.89	\$9,153.89	\$9,153.89
2nd Mortgage (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$513.43	\$513.43	\$513.43
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$801.25	\$801.25	\$801.25
Property Tax (Provincial) (Line 10)	\$2,519.50	\$2,519.50	\$2,519.50
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$277.52	\$277.52	\$277.52
Maintenance Fee (Line 13)	\$1,357.04	\$1,357.04	\$1,357.04
Capital Expenditures (Line 14)	\$800.00	\$800.00	\$800.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
Total Expenses	<u>\$15,422.63</u>	<u>\$15,422.63</u>	<u>\$15,422.63</u>
Annual Net Profit	(\$1,862.63)	(\$1,046.63)	(\$1,046.63)
Value of Investment	\$170,000.00	\$170,000.00	\$170,000.00
Net Profit	(\$1,862.63)	(\$1,046.63)	(\$1,046.63)
Return on Capital Investment	-1.1%	-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.