

## Introduction

- [1] On January 24, 2024, the Landlord filed (9) nine *Landlord Application to Request Additional Rent Increase* (Form 9) (the “Applications”) with the Residential Tenancy Office (the “Rental Office”), pursuant to clause 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 clause 49(2) of the *Act*. The Applications disclose the current rents, proposed rents and the effective dates as listed below.

Unit #	Current Rent	Proposed Rent	Effective Date
28-148	\$492.00	\$521.00	April 1, 2024
32-148	\$602.00	\$638.00	April 1, 2024
35-148	\$725.00	\$768.00	April 1, 2024
37-148	\$631.00	\$668.00	April 1, 2024
1-154	\$668.00	\$708.00	April 1, 2024
4-154	\$640.00	\$678.00	April 1, 2024
10-162	\$721.00	\$764.00	April 1, 2024
11-162	\$666.00	\$706.00	April 1, 2024
16-162	\$700.00	\$742.00	April 1, 2024

- [3] On January 24, 2024, the Landlord submitted into evidence a *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 13, 2024, a teleconference hearing was held before a Residential Tenancy Officer (the “Officer”). Two Landlord representatives appeared, representing the Landlord. One Tenant provided a written submission opposing the rent increase.

## 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 several pages of documents into evidence to support and assist the Applications and the Statement. On February 29, 2024, the Landlord submitted a letter from a RE/MAX realtor (“K.F.”) which stated K.F. viewed the units at the Residential Property and based on the current market conditions the value of each unit would be \$100,000.00 per unit. There are 28-units in the building putting the value of the entire building at \$2,800,000.00.

### Landlord’s Evidence and Submissions

- [7] The Representatives testified that expenses for the Residential Property have been increasing and rents have not increased to keep up with the rise in expenses. The Representatives stated the current rents are low and need to be increased.

### Tenants’ Evidence and Submissions

- [8] One of the Tenants provided a written submission and stated he was opposed to the rent increase. He stated some of the expenses submitted are not accurate and there has not been much upkeep to his unit.

## Adjustments to the Statement

[9] The Officer's adjustments to the Statement are provided below and are reflected in Appendix "A" of this Order. The Landlord provided the rental income and expenses for the entire 28-unit building so the Officer will reflect this in the adjustments as required.

1. **[Line 1 – Rental Income]**

The combined rental income for the entire building is \$302,049.00. The additional rent increase would increase the rental income to \$306,257.00.

2. **[Line 12 – Management fees]**

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 Officer adjusts Line 12 to \$15,102.00.

3. **[Value of the investment of the property]**

The Landlord submitted a letter from a realtor which stated the market value of the whole building is \$2,800,000.00 as of February 29, 2024. The Officer notes that the tax assessed value of the entire property is low in comparison at \$484,600.00 and the properties were purchased in 1985 and 1989 at a price which would not reflect the current value of the property. Based on the best evidence available, the Officer finds the value of the property to be \$2,800,000.00.

## Analysis

[10] The Applications are made in accordance with section 75 of the *Act* and are pursuant to clause 50(1) of the *Act*. When deliberating on the Applications, 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.*

[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 claim.

**The Factors**

- [12] Regarding clause 50(3)(a), the Landlord provided the rents for the past three years.
- [13] Regarding clause 50(3)(b), the Landlord provided documents into evidence to assist in establishing a change in the operating expenses to the Residential Property over the past three years.
- [14] Regarding clause 50(3)(c), the Statement's income and expenses disclose that the Landlord is currently yielding a 2.2% 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 be 2.3%.
- [15] Regarding clause 50(3)(d), the evidence establishes that the last rent increase occurred on April 1, 2023. One Tenant submitted that he was opposed to the rent increase.
- [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 their operating costs have changed over the past three years (disclosed in the Statement). Specifically, the Officer references an increase in insurance, snow removal, and maintenance expenses. Further, the Landlord has established that the Landlord is not making a reasonable return on their investment.
- [18] The Island Regulatory and Appeals Commission noted in Order LR23-80:

*In previous Orders, the Commission has considered reasonable return on investment rates and has found them to be, in recent years, in the range of 4% to 7%. The Commission has used 7% as an appropriate ROI where the Landlord is relying on a recent actual purchase price or on the tax assessed value. A lower rate of 4% has been used when the Landlord is using a blend of the tax assessed value and an appraisal done for the Landlord's benefit. In the present case, the Landlord has submitted an appraised value which was done for the Estate of the party that conveyed the property to the Landlord, and which was accepted for income tax capital gain purposes by Canada Revenue Agency. The Commission finds that this type of valuation is substantially equivalent to a recent purchase price and therefore finds that a ROI of up to 7% is reasonable.*

- [19] The factors weigh in favour of the Landlord's additional rent increase. Therefore, the Applications are allowed.
- [20] The Landlord is permitted to increase the rent by the annual allowable set by the Director in the amount of 3% and the Landlord is permitted to increase the rent by an additional 3% on the effective date set below. A total rent increase of 6% is allowed.

**Conclusion**

[21] The Applications are 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:

<b>Unit #</b>	<b>Rent</b>	<b>Effective Date</b>
28-148	\$521.00	April 1, 2024
32-148	\$638.00	April 1, 2024
35-148	\$768.00	April 1, 2024
37-148	\$668.00	April 1, 2024
1-154	\$708.00	April 1, 2024
4-154	\$678.00	April 1, 2024
10-162	\$764.00	April 1, 2024
11-162	\$706.00	April 1, 2024
16-162	\$742.00	April 1, 2024

**DATED** at Charlottetown, Prince Edward Island, this 13th day of March, 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>
<b><u>Income</u></b>			
Rental Income at 100% (Line 1)	\$302,049.00	\$306,257.00	\$306,257.00
Vacancy Arrears/Losses (Line 2)	(\$1,800.00)	(\$1,800.00)	(\$1,800.00)
<b><u>Net Income before expenses</u></b> (Line 3)	<b>\$300,249.00</b>	<b>\$304,457.00</b>	<b>\$304,457.00</b>
<b><u>Expenses</u></b>			
1st Mortgage Interest (Line 4)	\$0.00	\$0.00	\$0.00
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$48,026.00	\$48,026.00	\$48,026.00
Water & Sewer (Line 7)	\$5,285.00	\$5,285.00	\$5,285.00
Electricity (Line 8)	\$7,157.00	\$7,157.00	\$7,157.00
Insurance (Line 9)	\$16,368.00	\$16,368.00	\$16,368.00
Property Tax (Provincial) (Line 10)	\$5,712.00	\$5,712.00	\$5,712.00
Property Tax (Municipal) (Line 11)	\$5,197.00	\$5,197.00	\$5,197.00
Management Fee (Line 12)	\$15,102.00	\$15,102.00	\$15,102.00
Maintenance Fee (Line 13)	\$105,528.00	\$105,528.00	\$105,528.00
Capital Expenditures (Line 14)	\$1,297.00	\$1,297.00	\$1,297.00
Other (Line 15)	\$29,348.00	\$29,348.00	\$29,348.00
<b>Total Operating Expenses</b> (Line 16)	<b><u>\$239,020.00</u></b>	<b><u>\$239,020.00</u></b>	<b><u>\$239,020.00</u></b>
<b>Net Profit or (Loss)</b> (Line 17)	<b>\$61,229.00</b>	<b>\$65,437.00</b>	<b>\$65,437.00</b>
<b>Value of Investment in Property</b>	<b>\$2,800,000.00</b>	<b>\$2,800,000.00</b>	<b>\$2,800,000.00</b>
<b>Operating Income</b> (Line 17)	<b>\$61,229.00</b>	<b>\$65,437.00</b>	<b>\$65,437.00</b>
<b>Return on Investment (ROI)</b>	<b>2.2%</b>	<b>2.3%</b>	<b>2.3%</b>

## 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.