

## Introduction

- [1] On January 24, 2024, 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.

Current Rent	Proposed Rent	Effective Date
\$2,100.00	\$2,226.00	September 1, 2024

- [3] On January 24, 2024, the Landlords submitted into evidence a *Landlord Statement of Income and Expenses* (Form 10) (the “Statement”).
- [4] All documents (including the Application, the *Tenant Notice of Annual Allowable Rent Increase* (Form 8), the *Notice of Hearing*, and the *Evidence Package*) were properly served in accordance with clause 100(1) of the *Act*.
- [5] On March 28, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). The Landlords participated representing themselves, however no Tenants participated or provided any evidence or submissions.

## Issue to be Decided

- i. Are the Landlords entitled to an additional rent increase above the annual guidelines?

## Summary of the Evidence

### Landlords’ Evidence and Submissions

- [6] The Landlords submitted several pages of documents into evidence to support and assist the Application and the Statement. The Landlords testified that expenses for the Rental Unit, which is a stand-alone house, have been increasing and rent has not increased to keep up with the rise in expenses. The Landlords stated their mortgage is up for renewal in 2025 and they expect the interest rate to be higher than their current rate at that time.

### Tenants’ Evidence and Submissions

- [7] The Tenants did not participate at the hearing and did not provide any written submissions and/or documents into evidence.

## Adjustments to the Statement

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

### 1. [Line 1 – Gross Income]

The rental income for the Rental Unit is \$25,200.00. The additional rent increase would increase the rental income to \$26,712.00.

2. **[Line 9 – Insurance]**

The Landlords stated Line 9 as \$834.36, however the Landlords agreed the documentary evidence shows this should be \$814.03. Line 9 is adjusted.

3. **[Lines 10/11 – Property Taxes]**

The Landlords combined Lines 10/11 and listed the property taxes as \$4,690.34 for 2022. However, the Landlords have provided documentary evidence showing their property taxes for 2023 as \$7,344.60. This Officer will adjust Lines 10/11 to use the the 2023 property taxes as this is the most accurate expense the Landlords are currently incurring.

4. **[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 \$1,260.00 as the Landlords manage the property themselves.

5. **[Line 15 – Other]**

The Landlords listed Other expenses as \$754.22 and stated these expenses are travel expenses, as they live in another province and have had to travel to the Rental Unit to assist in managing the property. The Officer finds that these travel expenses would be included in the Management Fees on Line 12. Line 15 is adjusted to \$0.00.

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

The value of the Landlords’ investment in the property is **\$91,576.00**. This calculated by taking the 2021 purchase price of \$354,900.00, and deducting the outstanding principal amount of the mortgage as of March 28, 2024, which was \$263,323.92.

## Analysis

[9] The Application is made pursuant to clauses 50(1) and 75 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 clause 4 of the *Regulations*. The relevant law is as follows:

**50. Request for additional increase**

(1) *A landlord may request the Director’s approval of a rent increase in an amount that is greater than the amount calculated under subsection 49(2) by making an application to the Director under section 75.*

**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.*

- [10] 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 claim.

**The Factors**

**Clause 50(3)(a)**

- [11] The Landlords provided the rents for the past two years, as the property only became a rental property in September 2021. There have been no rent increases at the Rental Unit.

**Clause 50(3)(b)**

- [12] The Landlords submitted documents into evidence to assist in disclosing a change in the operating expenses over the past two years, and tax expenses over the past three years. In the disclosed years, the Landlords provided a partial year and a full year of expenses and operating costs for the Rental Unit. The Officer is unable to establish if the operating expenses have *changed* over the past two years based on the limited information provided.

**Clause 50(3)(c)**

- [13] After making the appropriate adjustments to the Statement's income and expenses, found in Appendix "A", the Landlord is currently yielding a 9.1% return on investment. With the inclusion of the annual allowable and the additional rent increase allowed for 2024, the Landlord's return on investment would increase to 10.8%.
- [14] The Officer notes that the Island Regulatory and Appeals Commission (the "Commission") in Order LR23-80 made this comment as it relates to what a reasonable return on investment is:

*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.*

**Clause 50(3)(d)**

- [15] In 2024 the annual guideline is 3.0%. The Tenants did not participate or provide submissions as it relates to their expectations. However, there was no evidence before the Officer to conclude that the Tenants had received an additional rent increase since September 2021. While clause 50(3)(d) must be considered, in the circumstances, the Officer must weigh this factor with the others when determining whether or not a rent increase is appropriate.

**Clause 4 of the Regulations**

- [16] The Rental Unit was purchased by the Landlords in 2021. The Rental Unit was not purchased in the past 12 months and does not fit into the *Regulations* additional factor for consideration.

**Weighing of the Factors**

- [17] The Officer concludes that the Landlords are not entitled to a 3.0% additional rent increase, and are only entitled to the annual allowable for 2024 for a total increase of 3.0%. In coming to this conclusion, the Officer has balanced the factors and weighed the evidence submitted by the Landlords.
- [18] The Officer finds that the Landlords provided a partial year and a full year of expenses and operating costs for the Rental Unit. The Officer is unable to establish if the operating expenses have *changed* over the past two years based on the limited information provided.
- [19] The Officer finds that the Landlords are currently seeing a reasonable return on their investment at 9.1%. With the additional rent increase, the Landlords' return on investment would be 10.8%.
- [20] When balancing and weighing the factors with this specific set of facts and evidence, the Officer finds that the factors do not weigh enough in favour of the Landlords and they are not entitled to a 3.0% additional rent increase. The Officer finds that the Landlords are already seeing a reasonable return on investment. Therefore, the Application is denied.

**Conclusion**

- [21] The Application is denied.
- [22] The Landlords are entitled to the annual allowable for 2024 for a total increase of 3.0%.
- [23] **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.**
- [24] This Order will be sent to the parties by e-mail.

**IT IS THEREFORE ORDERED THAT**

- A. The maximum allowable rent for the Rental Unit is as follows:

Rent	Effective Date
\$2,163.00	September 1, 2024

**DATED** at Charlottetown, Prince Edward Island, this 22nd day of April, 2024.

(sgd.) Mitchell King  
\_\_\_\_\_  
Mitchell King  
Residential Tenancy Officer

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

	<u>Current</u>	<u>Requested (6.0%)</u>	<u>Allowed 2024 Increase (3.0%)</u>
<b><u>Income</u></b>			
Rental Income at 100% (Line 1)	\$25,200.00	\$26,712.00	\$25,956.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<b><u>Net Income before expenses (Line 3)</u></b>	<b>\$25,200.00</b>	<b>\$26,712.00</b>	<b>\$25,956.00</b>
<b><u>Expenses</u></b>			
1st Mortgage Interest (Line 4)	\$5,983.15	\$5,983.15	\$5,983.15
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$647.02	\$647.02	\$647.02
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$814.03	\$814.03	\$814.03
Property Tax (Provincial) (Line 10)	\$7,344.60	\$7,344.60	\$7,344.60
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$1,260.00	\$1,260.00	\$1,260.00
Maintenance Fee (Line 13)	\$794.15	\$794.15	\$794.15
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
<b><u>Total Operating Expenses (Line 16)</u></b>	<b><u>\$16,842.95</u></b>	<b><u>\$16,842.95</u></b>	<b><u>\$16,842.95</u></b>
<b>Net Profit or (Loss) (Line 17)</b>	<b>\$8,357.05</b>	<b>\$9,869.05</b>	<b>\$9,113.05</b>
<b>Value of Investment in Property</b>	<b>\$91,576.00</b>	<b>\$91,576.00</b>	<b>\$91,576.00</b>
<b>Operating Income (Line 17)</b>	<b>\$8,357.05</b>	<b>\$9,869.05</b>	<b>\$9,113.05</b>
<b>Return on Investment (ROI)</b>	<b>9.1%</b>	<b>10.8%</b>	<b>10.0%</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.