

INTRODUCTION

- [1] The applicable legislation is the *Residential Tenancy Act* (the “Act”).
- [2] On November 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”).
- [3] The Application was filed to request an additional rent increase above the annual allowable guidelines established by the Director of Residential Tenancy (the “Director”). The Application provides the proposed rent and the effective date as follows:

Proposed Rent	Effective Date
\$1,537.00	January 1, 2024

- [4] On July 9, 2024, the Landlords submitted into evidence a *Form 10 Landlord Statement of Income and Expenses* (the “Statement”).
- [5] On July 11, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). A Landlord participated in the hearing and no Tenants participated.

ISSUE

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

SUMMARY OF THE EVIDENCE

- [6] The Landlords submitted 34-pages of documents into evidence to support the Application and the Statement. The documents include: a copy of the *Form 8*, receipts, invoices, and bills.
- [7] The Landlords purchased the Rental Unit in May of 2022. The Rental Unit is a condominium situated in a multi-unit building and the Statement reflects the income and expenses for the Rental Unit.

LANDLORDS’ EVIDENCE AND SUBMISSIONS

- [8] The Rental Unit was not rented before it was purchased by the Landlords. The Landlord stated that expenses for the Rental Unit are high, specifically the mortgage interest and property taxes. The Landlords require a rent increase to cover their expenses. The last rent increase was the 2024 guideline of 3.0% on January 1, 2024. Rent is currently \$1,494.00.

ADJUSTMENTS TO THE STATEMENT

- [9] The Officer’s adjustments to the Statement are provided below and are reflected in Appendix “A” of this Order.
- a) **[Lines 1 and 3– Rental Income]**
The Statement disclosed the 2023 annual rental income for the Rental Unit as \$17,400.00. The Landlord stated she raised the rent by 3.0% on January 1, 2024. The rent is now \$1,494.00, which would make the 2024 rental income be \$17,928.00. The requested additional rent increase of 6.0% would increase the 2025 gross rental income to \$19,003.68. Lines 1 and 3 are adjusted.
- b) **[Line 4 – Interest Payments on First Mortgage]**
The Statement disclosed \$13,348.65 for annual interest payments for the Rental Unit, however the documentary evidence shows this should be \$13,004.74. Line 4 is adjusted.

c) **[Lines 10 and 11– Property Taxes]**

The Statement discloses \$1,039.00 for the 2023 provincial property tax; however, the documentary evidence shows the 2024 taxes will be \$2,025.00.

The Statement discloses \$528.30 for the 2023 municipal property tax; however, the documentary evidence shows the 2024 taxes will be \$1,164.75, which includes the waste watch fee. Lines 10 and 11 are combined into line 10.

d) **[Line 12 – Management/Condo fees]**

The Statement discloses \$1,650.00 for management/condo fees. Clause 1(c) of the *Residential Tenancy Regulations* (the “Regulations”) limit management fees for the purposes of the Application to the “actual cost of the management fee or 5 per cent of the gross rental income for the previous year, whichever is the lesser.” In this case, 5% of the gross rental income for 2024 will be \$896.40, which is less than \$1,650.00. Line 12 is adjusted.

[Value of the Investment in the Rental Unit]

- e) The Landlord stated the Rental Unit was purchased for \$253,500.00 in 2022 and the outstanding mortgage is currently \$194,136.00. Therefore, the value of the Landlords’ investment in the property is \$59,364.00.

ANALYSIS

- [10] The Application is made in accordance with clause 75 of the Act and seeks an additional rent increase pursuant to clause 50(1) of the Act. When determining the Application, the Officer must consider the factors prescribed in clause 50(3) and (4) of the Act, and clause 4 of the Regulations. The relevant law states:

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 guidelines.*

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.*

4. Request for additional increase

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.

THE FACTORS

Clause 50(3)(a)

- [11] The Landlords purchased the Rental Unit in 2022 and they provided the rent for the past two years. The rent was increased by the 2024 guideline of 3.0% on January 1, 2024.

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. In the disclosed two years, the operating expenses for the Rental Unit have changed, with some of the expenses increasing, such as the interest on the mortgage, property taxes, and condo fees.

Clause 50(3)(c)

- [13] After making the adjustments to the Statement's income and expenses as shown in Appendix "A", the Landlord is currently making a return on investment of -2.1%. With the inclusion of the requested additional increase (6.0%), the Landlords would be making a return on investment of -0.3% in 2025.
- [14] In a recent decision, the Island Regulatory and Appeals Commission in Order LR24-27 commented as to what a reasonable return on investment for a residential rental property is and stated:

46. *"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..."*

Clause 50(3)(d)

- [15] The Act requires a consideration of the expectation of the tenant that rent increases will remain within the annual guidelines. In this case, the Officer finds that rent was increased by the 2024 allowable of 3.0% on January 1, 2024.

Clause 4 of the Regulations

- [16] The Rental Unit was purchased by the Landlords in 2022. The Rental Unit was not purchased in the past 12 months and this additional factor is not applicable.

WEIGHING THE FACTORS

- [17] The Officer finds in this case the totality of the factors weighs in the Landlords' favour for approval of an additional rent increase for the Rental Unit. In coming to this conclusion, the Officer notes in particular:
- a. Some of the operating expenses for the Rental Unit have increased over the past two years and some will continue to increase in 2024.

- b. The Landlords are currently operating at a financial loss and, as a result, are not making a return on investment. Even with an additional rent increase, the Landlords will still not be making a return on their investment.

- [18] The Application requests an additional rent increase of 6.0%, which is calculated by adding a 3.0% additional rent increase and the 2024 allowable rent increase of 3.0%. As the rent was already increased on January 1, 2024, the next rent increase cannot take place for 12 months, which will be January 1, 2025.
- [19] The Officer finds the Landlords are permitted to increase the rent by the annual guideline set by the Director for 2025 and are permitted to increase the rent by an additional 3.0% effective January 1, 2025.

CONCLUSION

- [20] The Application is allowed.
- [21] The Landlords are permitted to increase the rent by the annual guideline set by the Director for 2025 and are permitted to increase the rent by an additional 3.0% effective January 1, 2025.
- [22] This Order will be sent to the parties by e-mail.
- [23] **TAKE NOTE: This decision contains sensitive information of the Landlords 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:

Rent for 2024	Rent for 2025	Effective Date
\$1,494.00	Previous year's rent + 3.0% of previous rent + % increase per 2025 annual allowable guidelines	January 1, 2025

DATED at Charlottetown, Prince Edward Island, this 26th day of July, 2024.

 (sgd.) Mitchell King
 Mitchell King
 Residential Tenancy Officer

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

	<u>2023/2024</u>	<u>Proposal</u>	<u>Allowed</u>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$17,928.00	\$19,003.68	\$19,003.68
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses (Line 3)</u>	\$17,928.00	\$19,003.68	\$19,003.68
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$13,004.74	\$13,004.74	\$13,004.74
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$0.00	\$0.00	\$0.00
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$375.00	\$375.00	\$375.00
Property Tax (Provincial) (Line 10)	\$3,189.75	\$3,189.75	\$3,189.75
Property Tax (Municipal) (Line 11)	\$0.00	\$0.00	\$0.00
Management Fee (Line 12)	\$896.40	\$896.40	\$896.40
Maintenance Fee (Line 13)	\$1,720.32	\$1,720.32	\$1,720.32
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)			
Total Operating Expenses (Line 16)	\$19,186.21	\$19,186.21	\$19,186.21
Net Profit or (Loss) (Line 17)	(\$1,258.21)	(\$182.53)	(\$182.53)
Value of Investment in Property	\$59,364.00	\$59,364.00	\$59,364.00
Operating Income (Line 17)	(\$1,258.21)	(\$182.53)	(\$182.53)
Return on Investment (ROI)	-2.1%	-0.3%	-0.3%

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals 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.