

INTRODUCTION

- [1] The Landlord requests approval for a 6% rent increase, being an additional 3% increase above the 2024 annual allowable guideline.

DISPOSITION

- [2] I find that the evidence supports the Landlord's request for a 6% rent increase.

BACKGROUND

- [3] The Unit is one half of a side-by-side duplex (the "Residential Property").
- [4] On May 13, 2024 the Landlord emailed the Tenant a *Form 8 Tenant Notice of Annual Allowable Rent Increase* (the "Form 8"), and a *Form 9 Landlord Application to Request Additional Rent Increase* (the "Application").
- [5] On August 12, 2024 the Landlord's representative filed the Application with the Residential Tenancy Office (the "Rental Office").
- [6] The Application shows the current rent, the proposed increased rent, the date of the last rent increase and the proposed effective date for the rent increase as follows:

Current Rent	Proposed Rent (6%)	Date of Last Rent Increase	Proposed Effective Date
\$1,950.00	\$2,067.00	September 1, 2022	September 1, 2024

- [7] On August 26, 2024 the Rental Office mailed and emailed the parties notice of a teleconference hearing.
- [8] On August 28, 2024 the Rental Office mailed and emailed the parties a new notice of a teleconference hearing.
- [9] On September 16, 2024 the Rental Office emailed the parties an evidence package. Included in the evidence package was a *Form 10 Landlord Statement of Income and Expenses* (the "Statement").
- [10] On September 24, 2024 a teleconference hearing was held. The Landlord's representative participated in the hearing.

ISSUE

- [11] Does the evidence support a 6% rent increase for the Unit?

ANALYSIS**Adjustments to the Statement**

- [12] The adjustments to the Statement are provided below and are reflected in Appendix "A".
- [13] The value of the investment in the Unit reflected in the Statement is \$285,000.00, which is half the appraised value of the Residential Property as of July 2022.
- [14] The Landlord's representative stated that the purchase price for the Unit in 2021 was \$216,500.00.

- [15] The Statement includes \$181,871.97 in capital expenditures that were completed on the Unit. I find it more appropriate to include the capital expenditures in the purchase price's value when calculating the value of the investment.
- [16] Deducting the first mortgage (\$103,404.33) and the second mortgage (\$151,000.00), the total equity in the Unit is \$143,967.60.
- [17] The Landlord's return on investment is shown in Appendix "A".
- [18] The Landlord has the burden of proving its claim by the civil standard of proof, which is on a balance of probabilities. This means that a decision-maker must be satisfied there is sufficiently clear and convincing evidence to support the claim.

Factors

- [19] In order to determine the additional rent increase, I must consider the following factors in subsection 50(3) of the *Residential Tenancy Act* (the "Act"):
1. The rent history for the affected Unit in the three years preceding the date of the Application;
 2. 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;
 3. The expectation of the Landlord to have a reasonable return on the Landlord's capital investment; and
 4. The expectation of the Tenant that rent increases will remain with the annual guidelines.
- [20] Subsection 50(4) provides that I have the discretion to consider any other relevant factor and any factor prescribed in the *Residential Tenancy Regulations* (the "Regulations"). The only other factor stated in the Regulations is 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. This factor is not relevant in this case because the Landlord has owned the Unit since 2021.

Review and Weighing the Factors

- [21] The documentary evidence, specifically the rent ledger, shows that the last rent increase for the Unit happened on September 1, 2022.
- [22] The Landlord's operating costs and capital expenditures have increased by approximately \$5,000.00 between 2022 and 2023. The Landlord's representative stated that property tax and interest on the second mortgage have increased. The evidence establishes that the Unit is operating at a financial loss.
- [23] The Tenant did not provide evidence disputing an above guideline rent increase.
- [24] These factors generally support rent increases above the 3% guideline for 2024.
- [25] In this case, the Landlord is not obtaining a return on investment, which also supports an above guideline increase.
- [26] For these reasons, I find that a 6% rent increase is supported for the Unit.

The Effective Date

- [27] On May 13, 2024 the Landlord emailed the Tenant the Form 8 effective on September 1, 2024 and the Application.
- [28] On August 12, 2024 the Landlord filed the Application seeking a 6% rent increase effective September 1, 2024.
- [29] It was unnecessary for the Landlord to serve the Form 8 Notice before filing the Application pursuant to 48(3) of the Act. Further, a landlord cannot complete an allowable rent increase and a later, separate above guideline increase within 12-months from the first increase (subsection 48(1)).
- [30] It appears that the rent increase effective date must be a minimum of three clear months from the date the Application was filed. Otherwise, a landlord could be able to implement an above guideline rent increase faster than a guideline rent increase (which requires three full months' notice).
- [31] Therefore, I find that the appropriate effective date for the rent increase is December 1, 2024.
- [32] I find the Application for an above guideline rent increase is allowed. The rent for the Unit is increased by 6% as provided below.
- [33] **This decision contains sensitive information and the parties are required to preserve its confidentiality pursuant to subsection 75(3) of the Act.**

IT IS THEREFORE ORDERED THAT

1. Effective December 1, 2024 the maximum allowable rent for the Unit is increased to \$2,067.00.

DATED at Charlottetown, Prince Edward Island, this 27th day of September, 2024.

(sgd.) Cody Burke

Cody Burke
Residential Tenancy Officer

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

	Current	Allowable (3%)	Additional (6%)
Rental Income			
Income (Line 1)	\$23,400.00	\$24,102.00	\$24,804.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$23,400.00	\$24,102.00	\$24,804.00
Expenses			
1st Mortgage Interest (Line 4)	\$1,638.47	\$1,638.47	\$1,638.47
2nd Mortgage Interest (Line 5)	\$12,210.32	\$12,210.32	\$12,210.32
Fuel (Line 6)	NA	NA	NA
Water & Sewer (Line 7)	\$471.05	\$471.05	\$471.05
Electricity (Line 8)	NA	NA	NA
Insurance (Line 9)	\$1,078.00	\$1,078.00	\$1,078.00
Property Tax (Provincial) (Line 10)	\$3,352.52	\$3,352.52	\$3,352.52
Property Tax (Municipal) (Line 11)	NA	NA	NA
Management Fee (Line 12)	\$1,170.00	\$1,205.10	\$1,240.20
Maintenance Fee (Line 13)	\$1,788.62	\$1,788.62	\$1,788.62
Capital Expenditures (Line 14)	\$12,244.73	\$12,244.73	\$12,244.73
Other (Line 15)	\$1,557.00	\$1,557.00	\$1,557.00
Total Expenses	<u>\$35,510.71</u>	<u>\$35,545.81</u>	<u>\$35,580.91</u>
Annual Net Profit	(\$12,110.71)	(\$11,443.81)	(\$10,776.91)
Value of Investment	\$143,967.60	\$143,967.60	\$143,967.60
Net Profit	(\$12,110.71)	(\$11,443.81)	(\$10,776.91)
Return on Capital Investment	-8.4%	-7.9%	-7.5%

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.