

INTRODUCTION

- [1] The Landlord applied for approval of a 5.3% rent increase, being an additional 3% increase above the 2025 annual allowable guideline.
- [2] At the hearing, the Landlord requested a further additional rent increase be phased in to achieve a reasonable return on investment.

DISPOSITION

- [3] I find that the evidence supports a 5.3% rent increase.
- [4] I find that it would be procedurally unfair to approve a phased in rent increase as that was not requested in the Application.

BACKGROUND

- [5] On September 27, 2024 the Landlord filed a *Form 9 Landlord Application to Request Additional Rent Increase* (the "Application") with the Residential Tenancy Office (the "Rental Office").
- [6] The Application shows the current rent, proposed rent, the date of the last rent increase and the proposed effective date for the rent increase as follows:

Details	Amount
Current Rent	\$1,352.00
Proposed Rent (5.3%)	\$1,424.00
Date of Last Increase – January 1, 2024	3.0% increase
Effective Date of Proposed Increase	January 1, 2025

- [7] On September 30, 2024 the Landlord hand-delivered the Application and the *Form 8 Tenant Notice of Annual Allowable Rent Increase* (the "Notice") to the Tenant.
- [8] On November 1, 2024 the Rental Office sent the parties notice of a teleconference hearing, scheduled for November 20, 2024.
- [9] On November 12, 2024 the Rental Office emailed the Landlord an evidence package. Included in the evidence package was a *Form 10 Landlord Statement of Income and Expenses* (the "Statement"). The Rental Office telephoned the Tenant regarding the hearing and the evidence package. The Tenant advised the Rental Office that he was not participating in the teleconference hearing and did not want the evidence package sent to him.
- [10] On November 20, 2024 the Landlord participated in the teleconference hearing. The Tenant did not participate in the hearing and the hearing proceeded in the Tenant's absence.

ISSUES

- i. Does the evidence support a 5.3% rent increase for the Unit?
- ii. Should a further additional rent increase be phased in to achieve a reasonable return on investment?

ANALYSIS**Adjustments to the Statement**

[11] The adjustments to the Statement are provided below and are reflected in Appendix "A".

Interest Payments on First Mortgage

[12] The Statement listed the annual expense for interest payments on the first mortgage for Year 1 (2024) at \$3,713.61.

[13] The Landlord stated that he purchased the Unit around 2001 and it was his primary residence until 2016. The Landlord stated that in 2021 he refinanced the Unit and received \$196,000.00, which was 80% of the Unit's appraised value (\$245,000.00). The Landlord stated that the 2021 refinance funds were used to pay off unsecured debt. The refinanced funds were not used towards the Unit. I find that the interest deduction is not permitted because the refinanced funds were not used for the upkeep, operation or improvement of the Unit. Therefore, I reduce this line item to \$0.00.

Other Expense – Lawn Care

[14] The Landlord stated that starting in 2025 he is taking over the expenses for lawn care because the Tenant does not maintain the lawn. The Landlord stated that it is the Tenant's responsibility under the tenancy agreement, however, moving forward, he will take on the lawn care responsibility for the Unit. The Landlord stated that he has received a \$900.00 quote for the lawn care for the 2025 year.

[15] I find that \$900.00 for lawn care may be considered in the calculations for 2025 while calculating the requested additional increase. The \$900.00 expense will not be calculated in the current (2024) expenses.

Value of Investment in the Property

[16] The Statement listed the value of the investment in the property as \$248,392.50. The Landlord stated that this is the value put on the Unit by the bank in the 2021 refinancing appraisal plus the capital expenditures. The Landlord stated that he did not include the outstanding mortgage for the Unit on the Statement because it does not request that information. The Landlord stated that the outstanding mortgage for the Unit is \$172,517.87.

[17] When determining the Landlord's return on capital investment, the Island Regulatory and Appeals Commission (the "Commission") in Order LR24-27 stated:

"In previous orders of the Commission respecting additional rent increases under the former Rental of Residential Property Act, we used a guideline for a reasonable return on investment of between 4% and 7%, depending on the circumstances."

[18] The circumstances were generally that the Commission would consider a recent purchase price, the tax assessed value or an averaging of the tax assessed with a third-party appraisal.

[19] The Landlord did not include a copy of the bank appraisal into evidence.

[20] The documentary evidence included the 2023 tax assessed value, which is 1% of the provincial property tax disclosed on Line 10 of the Statement. The 2024 tax assessed value was not included in the documentary evidence.

- [21] In this case, I find that relying solely on the 2024 tax assessed value and not deducting the outstanding refinanced funds to be the most appropriate method of calculating the value of the Unit for the purposes of the Application. The provincial property tax expense for Year 1 (2024) on the Statement is disclosed as \$1,670.00, which is 1% of the tax assessed value for 2024. Therefore, the value of the investment in the Unit is \$167,000.00.
- [22] The Landlord's return on investment is shown in Appendix "A".

Factors

i. Does the evidence support a 5.3% rent increase for the Unit?

- [23] In order to determine the Application, I must consider the following factors in subsection 50(3) of the *Residential Tenancy Act* (or the "Act"), which are as follows:
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 their capital investment; and
 4. The expectation of the Tenant that rent increases will remain within the annual guideline.
- [24] Subsection 50(4) of the Act provides that I have the discretion to consider any other relevant factor and any factor prescribed in the *Residential Tenancy Regulations* (or the "Regulations"). The only other factor stated in the Regulations is that the purchase of the 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.
- [25] I find this factor is not relevant in this case because the Landlord has owned the Unit since 2001.

Review and Weighing the Factors

- [26] The documentary evidence shows the rent history for the last three years of the Unit. The last rent increase occurred on January 1, 2024 and it was the annual allowable 3% set for 2024.
- [27] The evidence establishes that the Landlord's operating costs and capital expenditures have increased over the past three years.
- [28] The Landlord is currently obtaining a 6.9% return on capital investment. After the adjustments to the Statement, including the proposed additional rent increase and the 2025 annual allowable guideline, the Landlord's return on investment would remain at 6.9%.
- [29] In Order LR24-27, the Commission commented on a reasonable return on investment as follows:
- "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..."*

- [30] The additional rent increase would provide the Landlord a 6.9% return on investment based upon a tax assessed value, which is below the 7% reasonable return on investment.
- [31] The Tenant did not submit any evidence as it relates to his expectation that the rent increases would remain within the annual guidelines.
- [32] I find that the factors when weighed together support a 5.3% rent increase.
- [33] Therefore, I find that the Application for an above annual guideline rent increase of 5.3% is allowed.
- ii. Should a further additional rent increase be phased in to achieve a reasonable return on investment?**
- [34] I find that it would be procedurally unfair to approve a phased in rent increase as that was not requested in the Application.
- [35] At the hearing, the Landlord stated that next year he intends to apply to the Rental Office for a phased in rent increase. The Landlord requested that a phased in rent increase be considered in the Application to achieve a reasonable return on investment.
- [36] The Application and the Notice does not request a phased in rent increase, and the Tenant did not participate in the hearing. To approve a further rent increase would not be procedurally fair to the Tenant.
- [37] Further, I find that the Landlord is currently obtaining a 6.9% return on investment. That return will remain the same with the inclusion of the additional rent increase. As noted above, the Commission finds that when relying solely on a tax assessed value, a 7% return on investment is reasonable.
- [38] Therefore, the Landlord's request for a phased in additional rent increase is denied.
- [39] **This decision contains sensitive information and the parties are required to preserve its confidentiality under subsection 75(3) of the Act.**

IT IS THEREFORE ORDERED THAT

1. Effective January 1, 2025, the maximum allowable rent for the Unit is increased to \$1,424.00.

DATED at Charlottetown, Prince Edward Island, this 16th day of December, 2024.

(sgd.) Cody Burke

Cody Burke
Residential Tenancy Officer

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

	Current	Allowable (2.3%)	Requested Increase (5.3%)
Rental Income			
Income (Line 1)	\$16,224.00	\$16,597.15	\$17,088.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$16,224.00	\$16,597.15	\$17,088.00
Expenses			
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)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$661.50	\$661.50	\$661.50
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$1,139.00	\$1,139.00	\$1,139.00
Property Tax (Provincial) (Line 10)	\$1,670.00	\$1,670.00	\$1,670.00
Property Tax (Municipal) (Line 11)	\$768.20	\$768.20	\$768.20
Island Waste Fee (Line 12)	\$213.00	\$213.00	\$213.00
Maintenance Fee (Line 13)	\$92.00	\$92.00	\$92.00
Capital Expenditures (Line 14)	\$169.63	\$169.63	\$169.63
Other (Line 15) Lawn Care 2025	\$0.00	\$900.00	\$900.00
Total Expenses	<u>\$4,713.33</u>	<u>\$5,613.33</u>	<u>\$5,613.33</u>
Annual Net Profit	\$11,510.67	\$10,983.82	\$11,474.67
Value of Investment	\$167,000.00	\$167,000.00	\$167,000.00
Net Profit	\$11,510.67	\$10,983.82	\$11,474.67
Return on Capital Investment	6.9%	6.6%	6.9%

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.