

INTRODUCTION

- [1] This decision determines an application filed with the Residential Tenancy Office (the "Rental Office") under the *Residential Tenancy Act* (the "Act").
- [2] The Tenant applied for a return of rent from the Landlord based upon an unlawful rent increase that occurred in July of 2021.
- [3] The former rental legislation, the *Rental of Residential Property Act* (the "Former Act"), was in force at the time of this rent increase.

DISPOSITION

- [4] The Landlord will pay the Tenant \$7,020.00 due to an unlawful rent increase.
- [5] The Landlord will not collect a monthly rent for the Unit greater than \$825.00 until the Landlord increases the Unit's rent in accordance with the *Residential Tenancy Act*.
- [6] As a result of these determination, I find that the Landlord must also return \$125.00 of the security deposit in excess of \$825.00.

BACKGROUND

- [7] The Unit is a two-bedroom, one-bathroom apartment located in an eight-unit building (the "Residential Property") that the Landlord purchased in May or June of 2021.
- [8] The Landlord and the Tenant entered into a written, fixed-term rental agreement for the Unit from July 1, 2021 to June 30, 2022. At the end of the fixed-term the agreement continued on a month-to-month basis. Rent is due on the first day of the month. The Tenant paid a security deposit of \$950.00 around June 20, 2021.
- [9] The parties agree that the Unit's rent has been paid in full from July 2021 to June 2025. The parties also agree that the Unit has the following rent history:
- July 2021 to June 2022 - \$950.00
 - July 2022 to December 2023 - \$960.00
 - January 2024 to December 2024 - \$989.00
 - January 2025 to June 2025 - \$1,012.00
- [10] On May 1, 2025 the Tenant filed a *Form 2(A) Tenant Application to Determine* with the Rental Office claiming against the Landlord based upon an unlawful rent increase (the "Application").
- [11] On May 7, 2025 the Rental Office emailed the parties notice of a teleconference hearing scheduled for June 17, 2025 along with a copy of the Application.
- [12] On June 10, 2025 the Rental Office emailed the parties a 20-page evidence package.
- [13] On June 17, 2025 the Tenant and the Landlord's representative (the "Representative") joined the teleconference hearing. The parties confirmed receipt of the evidence package and confirmed that all documents submitted to the Rental Office were included.

ISSUE

- A. Did the Landlord unlawfully increase the Unit's rent?

ANALYSIS

- [14] For the reasons below, I find that the Landlord unlawfully increased the Unit's rent as of July 1, 2021.
- [15] Based upon the evidence presented, the Unit's previous tenant paid a monthly rent of \$825.00.
- [16] On July 1, 2021 the Tenant moved into the Unit and the rent increased to \$950.00. This was a 15.15% rent increase, well above the 2021 allowable percentage of 1.00% approved by the Island Regulatory and Appeals Commission (the "Commission") under the *Former Act*.
- [17] At the hearing the Representative essentially argued that the Tenant had full knowledge of the 15.15% rent increase and agreed to this increase.
- [18] I note that the Commission previously determined that agreement to an unlawful rent increase is not a valid defence. In Order LR19-15 the Commission stated:

*"In Prince Edward Island, the Rental of Residential Property Act (the "Act") provides for a system of rent control whereby rent runs with the residential unit. When a lessee surrenders possession of that unit to the lessor, that rate of rent still remains fixed to that unit. This rent applies to a subsequent lessee even if the unit has been vacant between the tenancies. **Any agreement as to the amount of rent reached between lessor and lessee is null and void to the extent that it runs contrary to the rent control provisions of the Act.***

To balance out the rigours of rent control, Part IV of the Act sets out the process whereby rent increases may lawfully be made. If a lessor raises the rent of a unit without first following the process set out in Part IV of the Act, such an increase is illegal."

[Emphasis added.]

- [19] The Landlord did not apply to the Rental Office for a greater than allowable rent increase for the Unit under the *Former Act*.
- [20] The Landlord did not apply to the Rental Office for an above guideline rent increase for the Unit under the *Act*.
- [21] The Landlord submitted into evidence three rent increase notices issued by the Landlord under the *Former Act* and the *Act*.
- [22] I find that these rent increase notices do not increase the Unit's rent above \$825.00. In Order LR22-12 the Commission made the following determination:

"...the Commission agrees with the Director that any increase in subsequent years was unlawful as it was based on the original unlawful increase in rent."

- [23] The three rent increases were based upon the unlawful rent of \$950.00 and therefore these increases were also unlawful.

- [24] I find that the Tenant has established a claim against the Landlord for the monthly rent collected in excess of \$825.00, in the grand total amount of \$7,020.00, calculated as follows:

Period	Rent Collected	Overpayment	Number of Months	Total
July 2021 to June 2022	\$950.00	\$125.00	12	\$1,500.00
July 2022 to December 2023	\$960.00	\$135.00	18	\$2,430.00
January 2024 to December 2024	\$989.00	\$164.00	12	\$1,968.00
January 2025 to June 2025	\$1,012.00	\$187.00	6	\$1,122.00
			Grand Total	\$7,020.00

- [25] The Landlord will not collect a monthly rent for the Unit greater than \$825.00 until the Landlord increases the Unit's rent in accordance with the *Residential Tenancy Act*.
- [26] As a result of these determinations, the Landlord must also return to the Tenant excess security deposit funds of \$125.00 (\$950.00 minus \$825.00), by the timeline below.
- [27] Subsection 10(1) of the *Former Act* and subsection 14(3) of the *Act* prohibited the Landlord from collecting a security deposit from the Tenant in excess of one month's rent, being \$825.00.

IT IS THEREFORE ORDERED THAT

1. The Landlord must pay the Tenant \$7,020.00 by August 19, 2025 due to an unlawful rent increase.
2. The Landlord will not collect a monthly rent for the Unit greater than \$825.00 until the Landlord increases the Unit's rent in accordance with the *Residential Tenancy Act*.
3. The Landlord must also return to the Tenant security deposit funds of \$125.00 by August 19, 2025.

DATED at Charlottetown, Prince Edward Island, this 19th day of June, 2025.

(sgd.) Andrew Cudmore

Andrew Cudmore
Residential Tenancy Officer

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.