

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 Tenants seek compensation and a rent reduction alleging that the Unit's monthly rent of \$1,450.00 was unlawfully increased through the removal of rent discounts.
- [3] The Tenants' monthly rent payments increased by about 5% effective March 1, 2022. The rent payments increased again by 15.4% effective March 1, 2023.

DISPOSITION

- [4] I find that the Unit's rent was unlawfully increased.
- [5] I find that the Unit's lawful rent is \$1,573.98 plus \$100.00 for a parking/storage space fee.
- [6] The Former Landlord must pay the Tenants \$9,469.07 and the Purchaser Landlord must pay the Tenants \$1,787.57 by the timeline below.
- [7] The Purchaser Landlord must pay the Tenants any February 2026 and March 2026 rent that the Tenants have already paid that is in excess of the lawful rent.

BACKGROUND

- [8] The Unit is a two-bedroom, two-bathroom apartment located in a 77-unit building (the "Residential Property").
- [9] The Former Landlord and the Tenants entered into a written, fixed-term tenancy agreement from February 16, 2021 to February 28, 2022 (the "Tenancy Agreement"). On January 14, 2021 the Tenants paid the Former Landlord a \$725.00 security deposit. The parties dispute the Unit's lawful rent.
- [10] The first time that the Former Landlord rented the Unit was to the Tenants.
- [11] The parties later signed a second written agreement that began on March 1, 2022.
- [12] On April 8, 2023 the *Act* came into force replacing the former legislation, the *Rental of Residential Property Act* (the "Former Act").
- [13] On August 8, 2025 the Purchaser Landlord purchased the Residential Property from the Former Landlord.
- [14] The Former Landlord and the Purchaser Landlord are referred to collectively in this decision as the "Landlords."
- [15] On October 14, 2025 the Tenants filed a *Form 2(A) Tenant Application to Determine Dispute* with the Rental Office seeking compensation and a rent reduction based upon unlawful rent increases (the "Application").
- [16] On November 25, 2025 the Rental Office sent the parties notice of a teleconference hearing scheduled for January 20, 2026.
- [17] On January 13, 2026 the Rental Office sent the parties a 121-page PDF evidence package ("EP").

- [18] On January 20, 2026 the Tenants, the Former Landlord's representatives and the Purchaser Landlord's representative participated in a teleconference hearing. The parties confirmed receipt of the evidence package. The parties confirmed that all evidence submitted to the Rental Office was included. During the hearing the parties confirmed the correct names for the Tenants, the Former Landlord and the Purchaser Landlord.

ISSUES

- A. Did the Former Landlord unlawfully increase the Unit's rent?
- B. If the rent was unlawfully increased, then who is responsible for the Tenants' claims?
- C. Did the Tenants mitigate their losses?

ANALYSIS

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

- [19] The Tenants allege that the Former Landlord increased the Unit's rent in contravention of the *Former Act*. The Tenants' evidence is that the Unit's lawful monthly rent was \$1,450.00 and only the annual allowable rent increases were permitted.
- [20] The Landlords dispute that the Unit's rent was unlawfully increased. Instead, the rent discounts that the Tenants agreed to in the Tenancy Agreement and the second agreement were removed. Clause 3 of the Tenancy Agreement states in part:

"RENT (Week/month)

The lessee will pay rent at the following rate: \$1740.00 per month,

*** For the first 12 months of this agreement, the lessee will pay a promotional monthly rate of \$1450.00 which represents 2 months free rent spread equally over 12 months..."*

- [21] Clause 3 of the second, March 1, 2022 written agreement states as follows:

"RENT

The lessee will pay the following amt: \$1522.50 per month And will end on the last day of Feb,2023

(Week/month)

*The first payment of rent is due on the 1st day of each month
Payments shall be delivered/mailed to [Former Landlord] [Address]*

For the first 12 months of this agreement, the lessee will pay a promotional rate Of \$1522.50 which represents a discounted rent.

By witnessing here, the Lessee agrees and understands the promotions offered in This lease agreement. [Initials]"

- [22] The Tenants' rent payments increased by about 5% effective March 1, 2022 when the annual allowable percentage was 1.00%. The rent payments increased again by 15.4% effective March 1, 2023 when the legislated allowable percentage was 0%.

- [23] Subsection 112(2) of the *Act* allows discretion regarding whether a contravention of the *Former Act* is determined under the *Former Act*.
- [24] I find that the Tenants' unlawful rent increase claim can be determined under the *Act* because the legislative scheme regarding lawful rent increases did not substantively change when the *Act* came into force. I note that the Island Regulatory and Appeals Commission (the "Commission") followed this approach in Order LR25-32¹.
- [25] For the reasons below, I find that the Former Landlord unlawfully increased the Tenants' rent because the *Former Act* and the *Act* do not authorize rent discounts.
- [26] The *Former Act* governed residential rent increases from January 18, 1989 to April 7, 2023. During this time the Commission issued decisions regarding rent discounts.
- [27] On October 17, 1995 the Commission issued Order LR95-12², which determined an unlawful rent increase matter. In this decision the Commission found that the *Former Act* did not permit rent discounts, stating as follows:

"Even more significant, however, is that rent control legislation does not permit a Lessor to vary the rent depending upon how many people reside in an apartment or what kinds of services are provided. A lessor is also not able to give a discount to one tenant but not to another. Rent is fixed by law. Each rent relates to a specific apartment, not a specific "situation". Changes in tenants are irrelevant.

This is not to say that the Act is inflexible. Any lessor who has extraordinary expenses may apply to the Director for an increase to cover those expenses (s.23). Any lessor who wishes to discontinue a service previously included within the rent may apply to the Director for permission (s.6)."

- [28] The Commission issued at least two further *Former Act* decisions which imply that rent discounts were not authorized by this earlier rental legislation. In these cases, a landlord had originally charged a higher rent for a unit, later lowered the rent, and then purported to increase the lower rent above the annual allowable percentage without a Rental Office order. The Commission found that, after charging a lower rent, the landlord was required to obtain an order to increase the rent even though historically the landlord had collected a higher rent.
- [29] In the first decision, Order LR09-11³, the Commission stated in part:

"While the evidence before the Commission is clear that the rent for the premises had been \$980.00 per month in 2006, the Commission finds that Mr. Keunecke made the decision to advertise the premises at the rate of \$780.00 per month in order to attract a new tenant. Ms. Edge agreed to rent the premises at that monthly rate. At that point, the established rental rate for the premises was set at \$780.00. For the purposes of the present appeal, the Commission accepts the evidence of Mr. Keunecke that the reduction in rent was necessary because previous tenants left the premises in poor condition..."

While Ms. Edge did sign the August 18, 2007 rental agreement, the increase in rent was contrary to the Act as Mr. Keunecke did not follow the required process to seek a rental increase. Accordingly, the Commission agrees with the findings contained in the Director's Order LD09-112 and the appeal is hereby denied."

¹ Order LR25-32 is available at: <https://irac.pe.ca/wp-content/uploads/Order-LR25-32.pdf>

² Order LR95-12 is available at: <https://irac.pe.ca/wp-content/uploads/LR95-12.html>

³ Order LR09-11 is available at: <https://irac.pe.ca/wp-content/uploads/LR09-11.html>

[30] In the second decision, Order LR22-18⁴, the Commission stated in part:

“The Commission accepts that the rent for the Premises was initially \$1,400 per month, but that rate was then reduced. While the Appellants may have requested rent higher than \$1,200 per month from the tenants immediately prior to the Respondents, the Appellants deposited the post-dated cheques as they came due and thus are deemed to have accepted rent at \$1,200 per month. Unfortunately for the Appellants, such acceptance established the rent for the Premises at \$1,200 per month and no application was made to the Director to lawfully increase the rent prior to the Respondents leasing the Premises.”

[31] These two *Former Act* decisions establish that rent reductions can lower the lawful rent that a landlord can charge and collect even when the rental unit had a history of higher rent payments. Permitting rent discounts would be inconsistent with these decisions because the undiscounted rents have not even been charged and collected before.

[32] However, I note that some jurisdictions, like Ontario, have legislation allowing rent discounts.

[33] For instance, subsection 111(2.1) of Ontario’s *Residential Tenancies Act, 2006*, S.O. 2006, c.17 includes the following rent discount provision:

The lawful rent is not affected if one of the following discounts is provided:

1. A discount in rent at the beginning of, or during, a tenancy that consists of up to three months rent in any 12-month period if the discount is provided in the form of rent-free periods and meets the prescribed conditions.

2. A prescribed discount.

[34] The *Former Act* and the *Act* do not include rent discount provisions.

[35] Without legislated rules for rent discounts, the logical extension of the Former Landlord’s discounts through written agreement would render meaningless the rent increase restrictions in Part IV of the *Former Act* (sections 20 to 23) and Part 3 of the *Act* (sections 47 to 50).

[36] For example, a landlord could purport to have an authorized rent in a written agreement of \$3,000.00 with a discount of \$1,500.00, with the rent actually collected and accepted being \$1,500.00. The discount is based upon a six-month free-rent period spread over twelve months.

[37] At a later date the discount expires and the rent actually collected and accepted increases from \$1,500.00 to \$3,000.00, being a 100% rent increase from the rent that was previously charged and collected.

[38] The legislated rent increase restrictions are intended to provide a comprehensive framework for increases that cannot be avoided. I find that rent discounts through written agreements cannot validly authorize a later above allowable increase of the rent actually collected.

[39] In this case the Former Landlord first increased the Unit’s monthly rent by about 5% effective March 1, 2022 when the annual allowable percentage was 1.00%.

[40] The Former Landlord later increased the Unit’s monthly rent by \$234.50 (15.4%) effective March 1, 2023, during a year where the annual allowable percentage was 0% (subsection 23(1.1) of the *Former Act* and subsection 49(4) of the *Act*).

⁴ Order LR22-18 is available at: <https://irac.pe.ca/wp-content/uploads/Order-LR22-18.pdf>

- [41] The rent discounts are effectively provisions that contract out of the rent increase rules, which is not permitted.
- [42] The parties stated that this was the first Rental Office hearing regarding the Unit. Therefore, there were no earlier Rental Office or Commission decisions authorizing above allowable rent increases for the Unit.
- [43] I find that the Unit's lawful rent is \$1,573.98 effective January 1, 2026 based upon the permitted annual allowable rent increases plus a \$100.00 charge for parking/storage.
- [44] The Tenants have established a total claim of \$11,256.64 from March 1, 2022 to January 31, 2026, calculated as follows:

Period	Collected Rent	Annual Allowable	Lawful Rent	Difference	Months	Annual Amount
MAR 2022 to FEB 2023	\$1,522.50	1.00%	\$1,464.50	\$58.00	12	\$696.00
MAR 2023 to DEC 2023	\$1,757.00	0%	\$1,464.50	\$292.50	10	\$2,925.00
JAN 2024 to DEC 2024	\$1,810.00	3.00%	\$1,508.43	\$301.57	12	\$3,618.84
JAN 2025 to DEC 2025	\$1,851.63	2.30%	\$1,543.12	\$308.51	12	\$3,702.12
JAN 2026	\$1,888.66	2.00%	\$1,573.98	\$314.68	1	\$314.68
					Total:	\$11,256.64

- [45] The division of the total claim between the Former Landlord and the Purchaser Landlord is determined below.

B. If the rent was unlawfully increased, then who is responsible for the Tenants' claims?

- [46] For the reasons below, I find the Former Landlord is responsible for the Tenants' claim up to August 7, 2025. The Purchaser Landlord is responsible for the Tenants' claim from August 8, 2025 onwards.
- [47] Based upon the evidence presented, particularly the Purchaser Landlord's real estate documents (EP95 to 121), I find that the Purchaser Landlord became the Residential Property owner on August 8, 2025.
- [48] The Former Landlord's evidence is summarized as follows. The Former Landlord argued that they should not be named in this matter because the Former Landlord has had no privity to the Tenants' contract since the Residential Property was sold. The Former Landlord provided the Residential Property's tenancy agreements to the Purchaser Landlord as part of the due diligence for the transaction. The Purchaser Landlord signed off on the condition that the tenancy agreements were acceptable to the Purchaser Landlord in every respect and the transaction completed as expected.
- [49] The Purchaser Landlord's evidence is summarized as follows. The Purchaser Landlord evaluated the Residential Property's purchase price based upon the Former Landlord's rent roll in early 2025. The Purchaser Landlord has used incentives with other properties to help fill up buildings, which is a common practice. The Purchaser Landlord received the Application after purchase and was surprised at the length of time that the Tenants' claim goes back. The Purchaser Landlord and the Former Landlord did not discuss this specific unit during the real estate transaction.
- [50] I note that the *Act* transfers certain financial obligations owed to tenants from vendors to purchasers.

- [51] For instance, section 104 of the *Act* transferred the security deposit obligations from the Former Landlord to the Purchaser Landlord. This section states as follows:

The obligations of a landlord under this Act with respect to a security deposit pass to a person who acquires the interest of the landlord in the rental unit.

- [52] The *Act* has no equivalent section regarding the obligations for unlawful rents collected.

- [53] The Tenants' claims against the Landlords are authorized by subsection 50(8), which states:

Where a landlord collects a rent increase that does not comply with this Part, the tenant may make an application to the Director under section 75 to recover the amount of the increase.

- [54] This clause does not transfer responsibility to a purchaser regarding unlawfully collected rent.

- [55] Although the Application was filed after the Purchaser Landlord became the owner of the Residential Property, the definition of "landlord" is broad enough to include the Former Landlord because it includes "a former landlord, as the context requires" (clause 1(h)(iv)).

- [56] A plain reading of this provision indicates that the tenant would recover the unlawful rent collected from the landlord that collected the unlawful rent.

- [57] In this context, I find that the Former Landlord is responsible for the unlawful rent collected up until the Purchaser Landlord became the owner of the Residential Property.

- [58] The Former Landlord must pay the Tenants the unlawful rent collected from March 1, 2022 to August 7, 2025 in the amount of \$9,469.07.

- [59] The Purchaser Landlord must pay the Tenants the unlawful rent collected from August 8, 2025 to January 31, 2026 in the amount of \$1,787.57.

- [60] I make no determination regarding any compensation claim directly between the Former Landlord and the Purchaser Landlord because any such claims would be a landlord-landlord dispute that is outside of my jurisdiction to determine.

C. Did the Tenants mitigate their losses?

- [61] For the reasons below, I make no deduction to the Tenants' established claims regarding tenant mitigation of losses.

- [62] Landlords need to be aware of the rules regarding rent increases.

- [63] In Order LR24-53⁵ the Commission stated in part as follows (paragraph 58):

"...we strongly caution the Landlord and the Landlord's Agent that it is their obligation to be aware of and follow the provisions of the Residential Tenancy Act with respect to rent increases. Order LD24-181 states that at the hearing before the Rental Office, the Landlord "stated she did not know about the rent control provisions of the Act." The Commission cautions the Landlord that ignorance of those obligations is not a defence."

- [64] The Rental Office and the Commission have reduced unlawful rent increase awards based upon insufficient tenant mitigation.

⁵ Order LR24-53 is available at: <https://irac.pe.ca/wp-content/uploads/Order-LR24-53.pdf>

- [65] In particular, claims have been reduced where tenants are aware of unlawful rent increases and the tenants delay raising these issues with their landlords.
- [66] Order LR21-35⁶ involved a claim where the tenant had greater knowledge of an unlawful rent increase because of an earlier tenant's disclosure. This decision states in part (page 3):

"Ms. Perry testified that shortly after she signed the first rental agreement for the Premises, she was approached by the prior tenant, who advised her that the rent had previously been \$950 per month. Ms. Perry testified that she did not say anything about it to Mr. Varga because there were not a lot of rentals available on the market at the time, and she worried she would have to move. Ms. Perry did not raise the issue of the amount of rent she was paying for the duration of the first rental agreement, nor did she do so when she signed the second rental agreement for the Premises.

The Commission agrees with the Director that, notwithstanding the onus on Mr. Varga to make application to charge a greater than allowable rent for the Premises, Ms. Perry had an obligation to mitigate her losses and could have advised Mr. Varga much earlier in their rental relationship of the differences in rents. As such, the Commission confirms the reasoning and calculations made by the Director as to the amount payable by Mr. Varga to Ms. Perry..."

- [67] Order LR25-32⁷ involved a claim where the tenants had lived in the unit before the landlord purchased the unit and the tenants delayed raising issues with their new landlord. The Commission stated in part as follows:

"28. In this case, we are satisfied that the evidence demonstrates the Tenants' monthly rent was increased from \$325.00 to \$650.00 in August 2019, far exceeding the annual allowable increase in that year. Though the Tenants did not have documentary proof of the rent they paid to the previous owner of the Residential Property, we found their testimony on this point to be credible. Further, we note that the receipts submitted by the Tenants indicate that in June and July 2019 they paid \$325.00. The receipt is signed by a "D. McCallister". The receipts dated August 2019 onward are for \$650.00. This is consistent with the evidence that the Landlords only started collecting the higher rent in August 2019.

29. For clarity, we wish to comment that the Commission is satisfied that there was no intentional wrongdoing on the part of the Landlords in this case. However, as an administrative tribunal we are bound by the legislation that authorizes us. In this case, both the former Act and the new RTA are clear that landlords cannot increase rent beyond the allowable annual amount without making application to the Director for approval. We are satisfied that legislative requirement was not followed in this case. In addition, even though there is no evidence before the Commission that the Tenants took issue with the rental increase until they vacated the Rental Unit, any implicit or explicit waiver of the protection under the Act is considered to be null and void under section 5 of the Act.

30. Therefore, the Commission finds that the Tenants were subject to an unlawful rent increase and are owed compensation by the Landlords.

31. However, we do make one variation to Order LD25-217. The Tenants' evidence is that they only realized that the rent increase in 2019 was unlawful when they were on the Rental Office's website in May 2024. Despite realizing this in May, the Tenants did not bring an application to the Rental Office until December 2024, after already moving out of the Rental Unit. In the Commission's opinion, the Tenants had a general duty to mitigate their losses once they became aware that they had been subject to an unlawful increase. However, in

⁶ Order LR21-35 is available at: <https://irac.pe.ca/wp-content/uploads/Order-LR21-35.pdf>

⁷ Order LR25-32 is available at: <https://irac.pe.ca/wp-content/uploads/Order-LR25-32.pdf>

this case, the Tenants testified that they knew they were going to be moving, so they chose not to raise the issue until they moved out of the Rental Unit to avoid an uncomfortable situation until they left.”

- [68] In this case, the Former Landlord knew about the rent discounts because the Former Landlord implemented the rent discounts. There is no knowledge gap between the Former Landlord and the Tenants regarding the Unit's rent history.
- [69] The evidence establishes that the Tenants raised the unlawful rent issue with the Former Landlord. I note that on December 1, 2021 the Tenants wrote the Former Landlord twice questioning the proposed increase that was above the annual allowable percentage (EP35 to 41). On January 27, 2023 the Tenants wrote the Former Landlord again questioning an above allowable rent increase (EP31 to 32).
- [70] For these reasons, I find that mitigation does not reduce the Tenants' claim against the Former Landlord.
- [71] I also note the Tenants' evidence that they were new to the Province and Canada when they first rented the Unit. The Tenants stated that they did not file the Application sooner because the Tenants thought that the Former Landlord was doing the right thing trying to help them through the rent discounts. In October of 2025 the Tenants read a news article regarding rent increases, which led the Tenants to the Rental Office's website. After reviewing the Rental Office's website, the Tenants decided to file the Application.
- [72] Based upon this evidence, I find that the Tenants filed the Application shortly after learning that they could make these unlawful rent increase claims through the Rental Office.
- [73] The Tenants filed the Application against the Former Landlord and the Purchaser Landlord about two months after the real estate transaction between the Landlords completed. I find that the Tenants raised the unlawful rent issue with the Purchaser Landlord within a reasonable period of time and the Tenants therefore engaged in adequate mitigation efforts regarding the Purchaser Landlord.
- [74] I note that, even if I had found that the Tenants had not adequately mitigated their losses, I would not fully reduce the Tenants' compensation for any mitigation issues commencing April 8, 2023 onwards.
- [75] Under the *Former Act* there was no rent increase cap for landlords that applied for rent increases above the annual allowable percentage. Therefore, landlords could seek to correct unlawful rent increases by applying to the Rental Office for an immediate increase for the entire amount previously charged. The landlords would not need to seek phased-in increases over multiple years.
- [76] The rent increase rules changed on April 8, 2023.
- [77] The *Act* restricts applications for annual rent increases to 3.0% above the annual allowable percentage under subsection 50(7). As a result, the *Act* significantly restricts the ability to mitigate rental income losses in the context of unlawful rent increases.
- [78] For instance, consider if a rental unit's rent is reduced from \$3,000.00 to \$1,500.00 in 2026 because the Rental Office determines an unlawful rent increase occurred. The annual allowable percentage for this year is 2.0% and the additional rent increase maximum is 3.0% with a successful rent increase application, for a total 5.0% rent increase.
- [79] The largest rent increase in 2026 that could be approved would be \$75.00 (5.0% of \$1,500.00).

[80] Therefore, in this example mitigation could only reduce the landlord's rental income losses in 2026 by \$75.00 monthly, not the entire \$1,500.00 amount that this landlord previously collected.

CONCLUSION

[81] The Tenants have established that the Former Landlord unlawfully increased the Unit's rent.

[82] The Former Landlord and the Purchaser Landlord must return rent to the Tenants exceeding the Unit's lawful rent as provided below.

IT IS THEREFORE ORDERED THAT

1. The Unit's lawful rent is \$1,573.98 plus \$100.00 for a parking/storage space fee effective January 1, 2026.
2. The Former Landlord must pay the Tenants \$9,469.07 by April 7, 2026.
3. The Purchaser Landlord must pay the Tenants \$1,787.57 by April 7, 2026.
4. The Purchaser Landlord must pay the Tenants any February 2026 and March 2026 rent that the Tenants have already paid exceeding the lawful rent by April 7, 2026.

DATED at Charlottetown, Prince Edward Island, this 3rd day of March, 2026.

(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.