



Date Issued: August 29, 2023
Docket: LR23042
Type: Rental Appeal

INDEXED AS: Xiaoxia Zhang v. Tenants of 1-1A Chestnut Street and
26-28 Spring Park Road, Charlottetown

Order No: LR23-47

BETWEEN:

Xiaoxia Zhang

Appellant

AND:

Tenants of 1-1A Chestnut Street and 26-28 Spring Park Road, Charlottetown

Respondents

ORDER

Panel Members:

J. Scott MacKenzie, K.C., Chair
M. Douglas Clow, Vice-Chair

Compared and Certified a True Copy

(Sgd.) Susan Jefferson

Commission Administrator
Corporate Services and Appeals

1. INTRODUCTION

1. This appeal was heard by the Commission on August 28, 2023, and asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in denying a rent increase for four residential units.

2. BACKGROUND

2. A landlord, Xiaoxia Zhang (the “Landlord”) rents units located at 1-1A Chestnut Street and 26-28 Spring Park Road, Charlottetown, PE (the “Units”) to each of the Tenants (the “Tenants”). Rents for the Units ranges from \$867.00 to \$1,010.00 per month.
3. On February 25, 2023, the Landlord gave formal notice to the Tenants that she intends to raise their rent to an amount that was set out in each notice. On the same date, the Landlord filed with the Director an application to increase the rent above the percentage allowed by regulation (the “Application”) as follows:

Unit	Current Rent	Proposed Rent	Effective Date
1	\$867.00	\$950.00	August 1, 2023
1A	\$950.00	\$1,050.00	June 1, 2023
26	\$1,083.00	\$1,200.00	June 1, 2023
28	\$1,010.00	\$1,120.00	June 1, 2023

4. On March 20, 2023, the Landlord filed with the Director a Statement of Income and Expenses.
5. In Order LD23-248 dated June 6, 2023, the Director denied the Application.
6. On June 15, 2023, the Landlord filed an appeal with the Commission.
7. As this matter commenced prior to April 8, 2023, the *Residential Rental Property Act* (the “RRPA”) applies to this appeal.
8. The Commission heard the appeal by way of telephone conference call on August 28, 2023. The Landlord and Peter Wang (“Mr. Wang”) participated at the hearing. None of the Tenants participated.

3. DISPOSITION

9. The Commission dismisses the appeal and confirms Order LD23-248.

4. ANALYSIS

10. Mr. Wang stated that the Landlord was initially not aware that the insurance value of the building containing the Units (“the Property”) could not be used to establish the value of equity of the Property. Accordingly, as part of the appeal, the Landlord hired an appraiser to provide an appraisal report for the Property. That report, dated June 15, 2023, was filed with the Notice of Appeal. Mr. Wang asks that the Commission accept the appraisal report and use it to recalculate the value of equity of the Property.
11. The Commission accepts the June 15, 2023 appraisal as a valid appraisal report. As explained in Order LR23-14, in calculating the value of equity, it is the Commission’s practice to use both the appraisal value and the property tax assessed value to provide an average value for establishing the value for calculating equity. As discussed in Order LR23-14, in the absence of a professional analysis filed by a landlord setting out an appropriate rate of return on investment for residential rental properties, the Commission concludes that a return on investment of 4% is appropriate.
12. The Commission calculates the return on investment given the existing rents as 5.076%, calculated by the annual net profit of \$11,674.96 divided by equity of \$229,985.00. Equity is calculated by adding the appraisal value of \$470,000.00 with the assessed value of \$174,500.00 to give a sum of \$644,500.00, then dividing this sum by 2 to provide an average of \$322,250.00, then subtracting \$92,265.00 being the outstanding amount of the mortgage from the average, to give an equity of \$229,985.00.
13. Based on the current rent, the return on equity, at slightly over 5%, exceeds the appropriate return on equity of 4%. Accordingly, no increase in rent is warranted.
14. The Commission wishes to emphasize an important point made in Order LD23-248: that a 7% return on investment, as explained in Order LR22-39, is reasonable where a landlord is relying on the provincial tax assessed value alone. In the present appeal, 7% no longer is applicable as the Landlord has provided an appraisal report which has been accepted by the Commission.

5. CONCLUSION

15. For these reasons, the Commission dismisses the appeal, confirms Order LD23-248 and confirms the current rent for each of the four units.

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Order LD23-248 is confirmed.
3. The following current rents are confirmed:

Unit	Current Rent	Effective Date
1	\$867.00	August 1, 2023
1A	\$950.00	June 1, 2023
26	\$1,083.00	June 1, 2023
28	\$1,010.00	June 1, 2023

DATED at Charlottetown, Prince Edward Island, Tuesday, August 29, 2023.

BY THE COMMISSION:

(sgd. J. Scott MacKenzie)

J. Scott MacKenzie, K.C., Chair

(sgd. M. Douglas Clow)

M. Douglas Clow, Vice-Chair

NOTICE

Subsections 26(2), 26(3), 26(4) and 26(5) of the *Rental of Residential Property Act* provides as follows:

26. (2) A lessor or lessee may, within fifteen days of the decision of the Commission, appeal to the court on a question of law only.
(3) The rules of court governing appeals apply to an appeal under subsection (2).
(4) Where the Commission has confirmed, reversed, or varied an order of the Director and no appeal has been taken within the time specified in subsection (2), the lessor or lessee may file the order in the court.
(5) Where an order is filed pursuant to subsection (4), it may be enforced as if it were an order of the court.