



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: September 19, 2023

Docket: LR23058

Type: Rental Appeal

INDEXED AS: June Holmes v. Vincent Perry and Betty Perry

Order No: LR23-52

BETWEEN:

June Holmes

Appellant

AND:

Vincent Perry and Betty Perry

Respondent

ORDER

Panel Members:

J. Scott MacKenzie, K.C., Chair

Kerri Carpenter, Commissioner

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 September 12, 2023, and asks the Commission to determine whether the Director of Residential Rental Property (the “Director”) erred in approving a rent increase.

2. BACKGROUND

2. Vincent Perry and Betty Perry (the “Tenants”) rent one-half of a duplex located at 35 Linden Avenue, Charlottetown, PE (the “Unit”) from June Holmes (the “Landlord”). Rent for the Unit is currently \$833.00 per month.
3. On March 24, 2023, the Landlord filed with the Director a Statement of Income and Expenses (the “Statement”).
4. On April 4, 2023, the Landlord gave formal notice to the Tenant that they intend to raise the rent to \$1,424.00 per month effective July 1, 2023. On the same day, the Landlord filed with the Director an application to increase the rent above the percentage allowed by regulation (the “Application”).
5. In Order LD23-298 dated July 4, 2023, the Director allowed the Application in part and ordered that the monthly rent for the Unit be \$1,111.00 per month commencing August 1, 2023.
6. On July 24, 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 September 12, 2023. The Landlord and the Tenants participated.

3. DISPOSITION

9. The appeal is allowed in part, varying the maximum allowable rent to \$1157.00 per month, effective August 1, 2023.

4. ANALYSIS

10. The Landlord read into the record her letter which is found on page 2 of the Commission file materials. In summary, the Landlord is appealing Order LD23-298 because the Director excluded all maintenance costs from his calculation as the Landlord had not provided supporting invoices. The Landlord submitted summary sheets for the expenses she claims under the head of “maintenance” for 2020 and 2021 (at pages 37 and 47, respectively). She stated she lives in one side of the duplex and rents the other side to the Tenants. She states her 2021 maintenance expenses are 50% of \$9,419.33 and she

asked the Commission to adjust the allowable rent in accordance with maintenance expenses of that amount. On page 36 of the Commission file materials, the Landlord calculates that in her opinion the monthly rent for the Unit should be \$1,335.15.

11. The 2021 expenses submitted by the Landlord includes a roof re-shingling and new sheathing plywood of \$8,807.85 of which she claims 50%. The 2021 expenses also included an expense for a washing machine repair relating to the washing machine in the landlord's unit, per the testimony of the Landlord.
12. The Tenants submit that a 70% increase in rent is unfair. They submit they have been living in the Unit for about 10 years and have been good tenants.
13. With respect to the expenses claimed by the Landlord, the Commission notes that the new roof is not an expense that is permitted under maintenance in one single year as it is a capital improvement. The Commission finds that the roof expenses should be amortized over 20 years and therefore the amount of \$440.39 is attributable to each year.
14. With respect to the washing machine repair, while for some expenses for maintenance done to the structure as a whole may be apportioned equally between the two sides of the duplex, in this case where the repair was done solely to the washing machine on the landlord's side of the building, the Commission finds that this expense should not be included in the tabulation of maintenance for which the tenant may be partially responsible. The washing machine repair is therefore disallowed.
15. The balance of expenses claimed by the Landlord appear reasonable.
16. The Commission therefore finds that an adjustment to the overall 2021 maintenance costs is required. The amounts for washing machine repair (\$172.50) and roofing (\$8,807.85) are disallowed, but the sum of \$438.98 being the amount of the roof cost attributable to one year (using a 20 year amortization period) is to be added back in. The result is that the proven 2021 maintenance costs are \$879.37, of which 50% or \$439.69 is attributable to the Tenant.
17. Looking at the 2020 year, which the Landlord also submitted a detailed summary of, the maintenance costs totalled \$1,339.83, of which 50% or \$669.91 is attributable to the Tenant. The average of the 2020 and 2021 maintenance costs for the Tenant's unit is \$554.80.
18. The Commission notes that the Landlord claimed that there are significant expenses to be incurred for maintenance in the coming months, however, the Commission declines to consider speculative expenses. The landlord did not submit evidence by way of quotes or invoices.
19. The Commission finds that the maximum allowable rent should be increased by the average of the annual maintenance costs, being \$554.80 or \$46.23 per month, on top of the \$1,111 maximum monthly rent allowed by the Director. The Commission notes that a monthly rent of \$1157.00 for 12 months, minus the total annual expenses yield an annual net profit of \$9,905.36 which, given the Landlord's equity of \$141,700 (being the tax assessed value), yields a return on capital investment of 7%. A return on capital investment of 7% is reasonable where, as is the case here, a landlord is relying solely on the tax assessed value of the Unit.

20. Accordingly, the Commission varies Order LD23-298 and the maximum allowable monthly rent for the Unit is \$1157.00, effective August 1, 2023.

IT IS ORDERED THAT

1. The appeal is allowed in part.
2. Order LD23-298 is varied to set the maximum monthly rent for the Unit at \$1157.00, effective August 1, 2023.

DATED at Charlottetown, Prince Edward Island, Tuesday, September 19, 2023.

BY THE COMMISSION:

(sgd. J. Scott MacKenzie)

J. Scott MacKenzie, K.C., Chair

(sgd. Kerri Carpenter)

Kerri Carpenter

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.