



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

**Date Issued: July 15, 2025**

**Docket: LR25002**

**Type: Rental Appeal**

INDEXED AS: Jason Shakespeare v. Tenants of Unit 11 Cornwall Road  
and Unit 18 Heatherway Drive

2025 PEIRAC 32 (CanLii)

Order No: LR25-31

**BETWEEN:**

Jason Shakespeare (the "Landlord")

**Appellant**

**AND:**

Tenants of Unit 11 Cornwall Road and Unit 18 Heatherway Drive (the "Tenants")

**Respondents**

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## ORDER

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Panel Members:

Kerri Carpenter, Vice Chair  
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

## A. INTRODUCTION

1. This is an appeal, by the Landlord, of Order LD24-417 issued by the Director of Residential Tenancy on December 16, 2024. The Landlord asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office” or “Director”) erred in denying the Landlords’ request for an additional rent increase.

## B. BACKGROUND

2. This appeal concerns two rental units, being a side by side duplex, located at 11 Cornwall Road and 18 Heatherway Drive, Cornwall (collectively referred to as the “Rental Units”).
3. On September 27, 2024, the Landlord filed a Form 9 Landlord Application to Request Additional Rent Increase (the “Application”) with the Rental Office. The Landlord requested a rent increase above the annual allowable guideline established by the Director of Residential Tenancy as shown in the following table:

Unit	Current Rent	Proposed % Increase	Proposed Rent	Date of Last Rent Increase	Proposed Effective Date
11 Cornwall Road	\$1,223.00/month	5.3%	\$1,289.00/month	January 1, 2024	January 1, 2025
18 Heatherway Drive	\$1,157.00/month	5.3%	\$1,218.00/month	January 1, 2024	January 1, 2025

4. The Landlord’s proposed rent increase exceeds the allowable percentage established by section 49(4) of the *Residential Tenancy Act*, RSPEI 1988, c. R-13.11 (the “Act”) for 2025, which is 2.3%. He requested an additional rent increase of 3%, pursuant to section 50 of the Act. Section 50 permits a landlord to request an additional rent increase by making application to the Director, limited to 3% per calendar year (see subsection 50(7)). The Commission notes that the Landlord’s request for 18 Heatherway Drive is within this 3% limit, but the request for 11 Cornwall Road slightly exceeds the additional 3% limit. This will be further addressed below.
5. After conducting a hearing, the Director denied the Landlord’s Application for an additional rent increase for both Rental Units in Order LD24-417. The Director ordered that the permitted rent increase for both Units was the 2.3% annual guideline amount.
6. The Landlord filed an appeal with the Commission on January 6, 2025. The Commission heard the appeal on February 14, 2025, by way of telephone conference. The Landlord attended the hearing. The tenants who currently occupy the Rental Units were notified of the hearing, but did not participate.

## C. DISPOSITION

7. The Commission allows the appeal. The allowable monthly rent for the Rental Units are increased by 5.3%. Therefore, the allowable monthly rents for the Rental Units are as follows:
  - i. The allowable rent for 11 Cornwall Road, Cornwall, is \$1,287.82/month, effective January 1, 2025.
  - ii. The allowable rent for 18 Heatherway Drive, Cornwall, is \$1,218.00/month, effective January 1, 2025.

## D. SUMMARY OF EVIDENCE

8. The Landlord's evidence included written submissions and other documentary evidence to support his claim for an additional rent increase (e.g. property tax and property insurance information, furnace oil bills, mortgage statements, water and sewer bills, etc.). At the hearing before the Commission, the Landlord provided testimony and submissions in support of his position.
9. The Landlord agreed with the operating expenses accepted by the Rental Officer for both Rental Units at Appendix A of Order LD24-417; however, he raised issues with the method used in Order LD24-417 to calculate the value of his capital investment. For example, in Order LD24-417, the Rental Office determined that, should the requested increase be granted, the Landlord's return on investment (sometimes hereinafter referred to as "ROI") would equal 11.3%, which was above the ROI guideline established by the Commission. Therefore, the Landlord's requested additional rent increase was denied. On appeal, the Landlord has argued that the value of capital investment determined by the Director was much lower than the actual value of his capital investment, and therefore the resulting ROI as calculated by the Director was much higher than the actual ROI. The method of calculating the ROI will be discussed further herein.
10. In summary, the Landlord has raised issues related to the methodology used to determine the value of a landlord's capital investment and the calculation respecting return on investment. The analysis that follows will provide more detail with respect to the Landlord's position on appeal.

## E. ANALYSIS

### A. Introduction

11. Under the former *Rental of Residential Property Act*, there was no ceiling on the amount that could be awarded for an additional rent increase and previous orders of the Commission had developed some guidelines around adjudicating applications for additional rent increases ("Additional Rent Increases").<sup>1</sup> Generally speaking, those guidelines included a few different methods to calculate the value of a landlord's investment, depending upon the evidence provided by the Landlord, and set a reasonable range of return on investment at 4% or 7%

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<sup>1</sup> Additional Rent Increases are rent increases, authorized by the Director, that exceed the allowable annual rent increase established by the Director each year. Additional Rent Increases are often referred to as "greater than allowable" increases.

depending on the method used to calculate the value of investment. These guidelines were based, in part, on the former legislation and its regulations.

12. The *Residential Tenancy Act* (the “RTA”) was proclaimed in force in April 2023. The RTA significantly changed the legislative scheme that governs Additional Rent Increases, including by introducing a 3% maximum additional increase in a given year.
13. Subsection 50(3) of the *Residential Tenancy Act* provides a list of factors that must be considered in deciding whether to approve an application for an additional rent increase. The issues raised by the Landlord, and those that will be addressed in this Order, primarily relate to clause 50(3)(c) which requires a consideration of: “*the expectation of the landlord to have a reasonable return on the landlord’s capital investment*”.
14. Before we move on to those considerations, we want to make clear the Commission’s jurisdiction and role in adjudicating Additional Rent Increases under the RTA.
15. The RTA is legislation developed by Government policy-makers and passed by the Legislative Assembly of Prince Edward Island. Both the Commission and the Rental Office are administrative bodies created by statute and authorized by the RTA to carry out certain functions. Therefore, when the Rental Office and then the Commission are asked to decide an application for an Additional Rent Increase, that decision must be made in accordance with the provisions of the legislation approved by the law-makers of the province. The Commission, as an administrative tribunal, has neither the authority nor discretion to change the RTA or suspend its application to certain applicants on the basis of extenuating circumstances. In other words, the Commission must work within the scheme established under the RTA when adjudicating a request for an Additional Rent Increase. With that in mind, the Commission makes the following findings.

## **B. Additional Rent Increase – Factors to Consider**

16. As noted above, subsection 50(3) of the *Residential Tenancy Act* provides a list of factors that must be considered in deciding whether to approve an application for an additional rent increase. Those factors are:
  - (a) the rent history for the affected rental unit in the three years preceding the date of the application;
  - (b) 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;
  - (c) the expectation of the landlord to have a reasonable return on the landlord’s capital investment;
  - (d) the expectation of the tenant that rent increases will remain within the annual guideline.
17. Subsection 50(4) also provides the Director with discretion to consider any other relevant factor and any factor prescribed by the regulations. Currently, the only factor prescribed in the regulations is one which permits the Director to consider that the purchase of a residential property should not require a rent increase within the first year in order to achieve a reasonable return on investment. The Commission has not considered this factor in this case because the Landlord has owned this property for several years.

18. The analysis that follows will consider each of the four section 50(3) factors in turn and, in particular, comments on how to calculate and value a “landlord’s capital investment” as well as what is considered a “reasonable return” on that investment. The Order concludes with a weighing of the factors to determine whether the Landlord is entitled to the requested Additional Rent Increase.

**a. Clause 50(3)(a) – rent history for the affected rental unit**

19. Clause 50(3)(a) of the RTA requires a consideration of the rent history for the affected rental unit(s) in the three years preceding the date of the application.

20. In this case, according to the Landlord’s Form 9 Application, the rent for both Rental Units was last increased over one year ago, effective January 1, 2024.

21. The Landlord’s Form 10 Statement of Income and Expenses shows the annual rent history of each Rental Unit as follows:

	<b>2022</b>	<b>2023</b>	<b>2024</b>
11 Cornwall Road	\$12,524	\$14,244	\$14,676
18 Heatherway Drive	\$11,852	\$13,476	\$13,884

22. It can be seen that rent has increased year over year. From 2022 to 2023, the reported increase is 13.7% – this suggests the Landlord was awarded an Additional Rent Increase in 2022. From 2023 to 2024, rent increased by the allowable 3%.

23. The RTA does not specify how the rent history for the affected rental unit plays a role in determining whether an Additional Rent Increase should be awarded. For example, it does not specify whether the Rental Office and the Commission are to take note of previous increase(s) in rent and weigh that fact against an application for an Additional Rent Increase, nor does it specify whether it is the amount of rent historically charged in comparison to average rents in the marketplace. The Commission is, therefore, on its own to determine how this factor plays a role.

24. In this case, we determine that this factor is neutral. On the one hand, the fact that there was an overall 13.7% increase from 2022 to 2023, may weigh against an Additional Rent Increase two years later. On the other hand, the fact that the current and requested rent rates do not appear particularly high in comparison to the marketplace, considering that the Rental Units are both duplexes with green space and driveways, and there has been no indication that the Tenants are concerned about the condition of the Rental Units, may weigh in favour of an Additional Rent Increase.

**b. Clause 50(3)(b) - change in operating expenses and capital expenditures**

25. Clause 50(3)(b) requires us to consider a change in operating expenses and capital expenditures in the three years preceding the date of the application that we consider to be relevant and reasonable. Similar to our comments above, the RTA also does not provide guidance on how this factor is to be considered and weighed in the Commission’s analysis.

26. The *Residential Tenancy Regulations* defines “operating costs” as follows:

**5. Terms defined**

For the purposes of clause 50(3)(b) of the Act,

[...]

- (b) “operating costs” excludes depreciation costs, but includes the basic expenditures necessary for the operation of the building such as fuel, water, electricity, insurance, taxes, maintenance, management fees, staff wages or the value of a rental unit made available in lieu of wages, and financing costs of interest on mortgages registered against the property.

27. First, we wish to point out that the *Regulations* provide a definition of “operating costs”, while clause 50(3)(b) directs us to consider “a change in operating expenses and capital expenditures”. However, subsection 5(b) of the *Regulations* does directly refer back to clause 50(3)(b) of the RTA. Further, the Form 10 Landlord Statement of Income and Expenses approved by the Director of Residential Tenancy closely follows the definition of “operating costs” from the *Regulations*.

28. That said, the definition of “operating costs” is non-exhaustive. It defines operating costs as “[including] the basic expenditures necessary for the operation of the building” and then goes on to provide some specific, non-exhaustive, examples. The only operating cost expressly *excluded* is depreciation costs.

29. In the present case, the Commission accepts the Landlord has incurred the operating expenses and capital expenditures for the Rental Units for 2024 as submitted on his Form 10 Landlord Statement of Income and Expenses, and as accepted by the Rental Officer in LD24-418. The total of those expenses for both Rental Units was: **\$15,221.21**.

<b>Expenses</b>	<b>2024</b>	<b>2023</b>	<b>2022</b>
1st Mortgage Interest (Line 4)	\$6,033.16	\$6,171.56	\$6,380.90
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$1,058.40	\$979.78	\$909.38
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$1,866.75	\$1,748.26	\$2,006.76
Property Tax (Provincial) (Line 10)	\$2,740.18	\$2,772.00	\$2,521.00
Property Tax (Municipal) (Line 11)	\$1,385.98	\$1,275.12	\$1,159.66
Island Waste Fee (Line 12)	\$426.00	\$426.00	\$426.00
Maintenance Fee (Line 13)	\$310.50	\$310.50	\$310.50
Capital Expenditures (Line 14)	\$675.74	\$675.74	\$675.74
Other (Line 15)	\$724.50	\$736.00	\$661.26
<b>Total Expenses</b>	<b><u>\$15,221.21</u></b>	<b><u>\$15,094.96</u></b>	<b><u>\$15,051.20</u></b>

30. Each of the claimed expenses for 2024 was supported by documentary evidence (e.g. statements and invoices) to corroborate the claimed amounts. The Commission, therefore, accepts the evidence submitted by the Landlord in respect of his Form 10. We are satisfied that, aside from the interest expenses on the mortgage, there has been a modest increase in almost all other operating expenses for both Rental Units over the three years preceding the date of the application.
31. The Commission finds that this factor on its own does not weigh in favour of, or against, the requested increase.

**c. Clause 50(3)(c) - reasonable return on the landlord's capital investment**

32. Clause 50(3)(c) requires a consideration of the expectation of the landlord to have a reasonable return on the landlord's capital investment.
33. Much of the Landlord's concern over Order LD24-417 relates to this factor and, therefore, much of our analysis is focussed on this particular issue. Before we consider this factor in the context of the Landlord's Form 9 Landlord Application to Request Additional Rent Increase, we provide the following analysis in respect of the issues he raised in this appeal.

**i. Value of Capital Investment – method of determination**

34. The Landlord's appeal raised two primary issues with the method of determining the value of landlord's capital investment.
35. The first was an issue with the alternate ways the Commission has used in the past to calculate the value of a landlord's investment. For example, in previous Orders, the Commission has assigned a value to a landlord's capital investment using a recent purchase price, the tax assessed value, or the average of the tax assessed value and an appraisal.<sup>2</sup> The source numbers used by the Commission (and the Rental Office) depended upon the documentation submitted by the Landlord. However, we note that under the new *Residential Tenancy Act*, neither the Act nor the forms approved by the Director specify the variety of documents that have been accepted by the Rental Office and Commission in the past.
36. On appeal, the Landlord submitted that depending on which of the methods is used (e.g. recent purchase price, tax assessed value, or the average of the tax assessed value and an appraisal), this can significantly change a landlord's return on investment. In his case, he submitted that these three methods resulted in an ROI of 11.2%, 6.94%, and 4.56%, respectively.<sup>3</sup> This is because when a higher value of the investment is used in the formula (see paragraph 52 below), the resulting ROI is lower.
37. In our opinion, the goal when determining the value of the landlord's investment is to arrive at a valuation that is both accurate and reasonable in the circumstances. A key factor in that determination is for the Commission to interpret what is meant by the term "capital investment", as used in clause 50(3)(c). In our opinion, a capital investment is just that – the landlord's investment in capital, which includes both the land and building (i.e. real property).

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<sup>2</sup> See, for example: Order LR22-39.

<sup>3</sup> ROI calculation assuming Additional Rental Increase is approved.

38. In some cases, the most accurate way to determine the value might be an appraisal or a recent purchase price. In some past cases, and as shown on the Director's form (Form 10), the value may be determined using the original purchase price plus capital expenditures to account for an increase in the property's value over its lifetime. In another example, in a series of Orders issued by the Commission last year,<sup>4</sup> the Commission used the fair market value of a property that was submitted to, and accepted by, Canada Revenue Agency, for the purpose of setting the value of a deemed disposition for capital gains taxes. We wish to stress that the methods outlined herein are examples only, and that valuing a landlord's capital investment will be on a case by case basis, with the goal being to ascertain the actual fair market value of the capital asset as accurately as reasonably possible based upon the evidence brought forward to the hearing officer or panel.
39. When making an application for an additional rent increase, it will be incumbent on landlords to provide evidence of the value of the property that is accurate and reasonable. We pause here to say that this does not require a Landlord to incur the expense of obtaining an appraisal or other valuation report in order to be awarded an Additional Rent Increase. Rather, it simply requires landlords to put forward their best available evidence as to the value of their property. When deciding an application for an additional rent increase, it will be incumbent on the Rental Office (and Commission) to ask questions and evaluate the landlord's evidence in order to come to the most accurate valuation of the capital investment. It is also open to tenants who may be disputing an application for an Additional Rent Increase to bring forward evidence respecting the value of the landlord's capital investment. In the Commission's opinion, determining the most accurate and reasonable value of the landlord's capital investment will result in a more accurate "return on investment" calculation.
40. The second issue the Landlord raised is with respect to the Commission's past practice of deducting the principal amount of the mortgage (registered against the property upon which the Rental Unit sits) from the overall value of the property, when determining the value of a landlord's capital investment.
41. Director's Order LD24-417 explained the rationale for this practice:
- [17] 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.
  - [18] The Landlord opposes a mortgage deduction for calculating the capital investment value for the Units. However, it would appear that a mortgage deduction is necessary in order to normalize the treatment of landlords with varying amounts of loaned funds for residential properties.
  - [19] For example, consider a landlord that purchases a residential property using partly its own funds and loaned funds. If there is no mortgage deduction when calculating the value of the landlord's capital investment, then the landlord's return on investment could be calculated based upon the entire original purchase price and capital expenditures. This landlord could also include the mortgage interest as a deduction in the landlord's expenses.

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<sup>4</sup> See: Order LR23-80 and Orders LR24-21 through LR24-27.



- [20] Had the landlord used only its own funds to purchase the property, without any loan, then the landlord would have the same capital investment value, but no mortgage interest deduction.
- [21] When the landlord did not borrow any funds it puts more of its own funds at risk. However, it would have less support for an above guideline rent increase compared to if it had borrowed funds. By including the mortgage deduction in the value of the landlord's capital investment, the treatment of landlords with varying amounts of loaned funds is normalized.
- [22] I also note that the Commission in Order LR23-80, paragraph 43, referred to "equity" when calculating return on investment.

42. On appeal, the Landlord argued that this rationale allows higher rent increases for landlords who have paid off more of their mortgage balance. He argues this is not fair to landlords who do not have as much equity in their rental units.
43. In considering this argument, the Commission notes that the deduction of the mortgage principal used to be a requirement under the former *Rental of Residential Property Regulations*. Section 17 of the former *RRPA Regulations* required landlords to complete a Form 15, which was prescribed by those regulations. The Form 15 included the following calculation:

OTHER INFORMATION

- |  |         |
|--|---------|
| 1. Value of Property as per Provincial Assessment: | \$..... |
| 2. Amount of Outstanding Mortgages, Loans:         | \$..... |
| (Include only outstanding principal amounts)       |         |
| 3. Owner's Equity in Property:                     | \$..... |
| (Subtract #2 from #1)                              |         |
| 4. Year Property was Purchased: 20.....            |         |

44. The new RTA does not have a similar requirement respecting the deduction of outstanding mortgage principal amounts.
45. The Commission agrees with the Landlord that the value of capital investment used to calculate a landlord's return on investment should be the full value of a landlord's capital investment and should not deduct the outstanding mortgage principal. However, our rationale in coming to this conclusion is somewhat different from the Landlord's.
46. First, deducting the outstanding mortgage from the value of the property is no longer prescribed by the new RTA, the way it was by Form 15 under the former *RRPA Regulations*. Second, on a plain reading of, clause 50(3)(c) requires the Commission to consider the landlord's expectation to have a reasonable return on their "capital investment" – we interpret this to be the full value of the investment, whether acquired by cash or borrowed funds. If the Legislature had intended that mortgage balances were to be deducted, it stands to reason that the new Act would have clearly stated as much, or at least refer to a landlord's "equity" as was done on the former Form 15, rather than "capital investment".
47. Further, we are mindful that deducting the outstanding mortgage principal from the value of the capital investment may unfairly impact tenants based on the landlord's chosen method of funding their investment.

48. Where such a deduction is no longer expressly authorized by the legislation, the Commission is not satisfied that a landlord's financial decisions about how to fund their investment should play a role in determining whether they qualify for an Additional Rental Increase. With respect to the explanation provided in the past regarding Landlords without loans putting more of their own funds at risk, it should be noted that Landlords who have mortgaged properties also take on certain risk, albeit different risk. Landlords with mortgage loans, for example, bear the risk of fluctuating interest rates which can create significant additional expense in years where rates are higher than anticipated. Further, while they do not directly invest as much of their own funds as the landlord who does not obtain a loan to fund the purchase, a landlord with a mortgage must still eventually repay the mortgage.
49. In the Commission's opinion, adjusting the value of a landlord's capital investment based on outstanding mortgage principal can lead to drastically different calculations of return on investment, which would ultimately have an undesirable effect on rental rates and in particular, lead to drastically different rent rates for Tenants.
50. In summary, the Commission finds that the value of capital investment used to calculate a landlord's return on investment should be the full value of the landlord's capital investment (being the real property) and should not be subject to a deduction of the outstanding mortgage principal.

## **ii. Reasonable Return on Investment**

51. Finally, as said above, the Landlord argued that the inability to claim his principal payment, which is a real fixed expense for him, coupled with the method used to calculate the value of his capital investment, produces an unrealistically high ROI. For example, he submitted that even where he increases rent by the allowable 2.3%, when he factors in both his principal and interest payment, his actual cash flow at the end of the year is just over \$3,700.00. He said this is the money that is used for unforeseen costs or increased operating expenses over the year. However, using the Commission's formula, his return on investment is calculated to be 10.5%, which the Landlord argues is a much higher number than his actual return on investment. In summary, the Landlord has argued that the Commission's accepted ROI range should be updated to reflect these realities.
52. As a starting point, previous Orders of the Commission have used a long-established formula to calculate a landlord's return on their investment on an annual basis, referred to as "ROI". We are satisfied that this formula is still appropriate, particularly in the absence of professional opinion evidence saying otherwise. The ROI is expressed as a percentage and calculated as follows:

$$\text{ROI} = \frac{\text{annual rental income} - \text{annual operating expenses}}{\text{value of capital investment}}$$

53. Before commenting on the reasonable ROI a landlord can expect, we want to make two comments. The first is with respect to the "annual operating expenses" used to calculate the ROI in the formula above. Where we have accepted that mortgage principal should not be deducted from the value of the landlord's investment, we recognize that there should be some kind of "normalizing" in respect of how landlords choose to fund their investments. Therefore, we find that when calculating a landlord's ROI, the financing costs of interest on mortgages registered against the property *should not* be included in the "annual operating expenses".

54. For clarity, we are not saying that interest expenses cannot be considered in the context of clause 50(3)(b) when considering whether operating costs and capital expenditures have changed. We are only saying that when calculating ROI, to account in some way for the different way landlords choose to fund their investments, interest costs on mortgages registered against the property will not be included in the “annual operating expenses”.
55. The second comment we wish to make is that, historically and moving forward, the “return on investment” the Commission is concerned with is the landlord’s *annual* return on investment in respect of operating the property as a rental unit. This is made clear in the formula expressed above at paragraph 52. Neither the Commission nor the parties can predict the future and therefore the Commission does not take into account anticipated long term profits or losses on the eventual sale of a rental property.
56. In recent years, the Commission has accepted that a reasonable ROI for a landlord is either 4% or 7%, depending on the method used to calculate the value of their capital investment.
57. The Commission previously justified the 4% ROI guideline in Order LR22-39, as follows:
- Blue chip stocks offer a dividend that varies but is relatively reliable. Blue chip stocks may also offer share value accretion that is generally quite favourable over time, but are subject to day-to-day fluctuations in the market, and are also subject to general economic downturns and recessions.
  - Residential real estate rentals may offer an annual profit, but also offer the possibility of appreciation in the value of the real property asset.
  - A recent check of annual dividend yields for the “Big 5” Canadian banks indicates a range of from 4.08% to 5.23%, which is an increase over recent past yields.
  - Real property values on Prince Edward Island are generally increasing at a significant rate and, in recent years, at a very significant rate. While this current rate will likely level off to more modest growth, such growth is favourable over time.
  - Unlike stocks, including blue chip stocks, residential real estate is moderately isolated from negative market conditions, especially when demand for housing is high and vacancy rates are low.
  - While the Commission’s current 4% return on investment guideline is calculated before taxes, dividend yields are also before taxes. In addition, dividends may be subject to fees.
  - Dividend yields do not include the costs of financing the acquisition of shares. The Commission’s current 4% return on investment guideline is calculated after including any financing e.g., mortgage costs required to purchase the rental real estate asset.

58. In Order LR22-39, the Commission also commented that when using a conservative valuation of the property, for example the tax assessed value, the Commission would calculate the appropriate rent increase based on a 7% rate of return.
59. The Commission went on to say, in Order LR22-39, that in the absence of a professional analysis setting out an appropriate rate of return on investment for residential rental properties, the rate of 4% was appropriate in an environment where the real estate market value was increasing at a significant rate. However, the Commission also commented that a leveling off of real estate market values or continued rising interest rates could potentially warrant a raising of the 4% rate.
60. For the present time, the Commission is still without a professional analysis setting out an appropriate rate of return on investment for residential rental properties. We do acknowledge that investment conditions change and, in fact, have changed since Order 22-39. However, until such time as we are presented with a professional analysis, we are satisfied that, based on previous Commission Orders, landlords are entitled to a ROI of at least 4% and, on a case by case basis, landlords may justify that a ROI of up to 7% is reasonable, based on the specific circumstances.
61. Additionally, it is always open to landlords on additional rent increase applications to bring forward professional evidence and challenge the accepted ROI guideline, but the upper limit of 7% should not be adjusted further upward unless satisfactory professional evidence is provided.
62. As a final comment with respect to clause 50(3)(c) and a landlord's expectation to have a reasonable return on the landlord's capital investment, we reiterate that this is one factor in the analysis that must be weighed against all other factors listed in subsection 50(3).

### **iii. Application of clause 50(3)(c) in the present appeal**

63. The Director accepted that the value of the Landlords' investment in Unit 3 was \$25,394.81. However, as outlined above, the Commission takes a different view of how to value the Landlord's capital investment.
64. In this case, we accept that the market value of the Landlord's property (both Rental Units) as contained in the appraisal report submitted by the Landlord is both accurate and reasonable. The appraisal was completed in April 2024, only one year ago. The appraisal values the Rental Units at \$615,000.
65. The landlord's value of investment in the Rental Units equals: **\$615,000**. Because the monthly rent for each of the Rental Units are different, the value of the property will be divided in half to calculate the return on investment for each individual Rental Unit.

66. Using the new method outlined above, the Landlords' current ROI is:

**i. For 11 Cornwall Road**

Net Income (\$14,676.00 <sup>5</sup> - \$4,590.03 <sup>6</sup> )	=	\$10,085.97
Value of Landlord's Capital Investment:		<u>\$307,500</u>
Current Annual ROI:	=	3.3%

**ii. For 18 Heatherway Drive**

Net Income (\$13,884.00 <sup>7</sup> - \$4,590.03 <sup>8</sup> )	=	\$9,293.97
Value of Landlord's Capital Investment:		<u>\$307,500</u>
Current Annual ROI:	=	3.0%

67. The Landlord has requested an increase to of 5.3% per month. Such an increase amounts to an ROI calculated as follows:

**i. For 11 Cornwall Road**

Annual rent (\$1,287.82 <sup>9</sup> x 12 months)	=	\$15,453.84
Less Operating Expenses:		<u>(\$4,590.03)</u>
Net Income:		\$10,863.81
Value of Landlord's Capital Investment:		<u>\$307,500</u>
Proposed Annual ROI:	=	<b>3.5%</b>

**ii. For 18 Heatherway Drive**

Annual rent (\$1,218.00 <sup>10</sup> x 12 months)	=	\$14,616.00
Less Operating Expenses:		<u>(\$4,590.03)</u>
Net Income:		\$10,025.97
Value of Landlord's Capital Investment:		<u>\$307,500</u>
Proposed Annual ROI:	=	<b>3.3%</b>

68. The Landlords' current ROI for each Rental Unit is 3.3% for 11 Cornwall Road, and 3.0% for 18 Heatherway Drive. The requested rent increases would yield an ROI of 3.5% and 3.3%, respectively. The Commission agrees that the Landlord's request is both modest and reasonable in the circumstances.

69. In conclusion, we find that this factor weighs in favour of the Landlord's request for an Additional Rent Increase. Even with a 5.3% increase, the Landlord's expected ROI is still well below the 4% acceptable ROI determined above.

<sup>5</sup> Rental Income for 11 Cornwall Road at current rent.

<sup>6</sup> Half of the Operating Expenses and Capital Expenditures accepted at para 29, *not including interest expenses*.

<sup>7</sup> Rental Income for 18 Heatherway Drive at current rent.

<sup>8</sup> Half of the Operating Expenses and Capital Expenditures accepted at para 29, *not including interest expenses*.

<sup>9</sup> Rental Income for 11 Cornwall Road with 5.3% increase.

<sup>10</sup> Rental Income for 18 Heatherway Drive with 5.3% increase.

70. We pause here to note that the Landlord's requested rent increase to \$1,289 per month for 11 Cornwall Road equates to a 5.4% increase. The *Residential Tenancy Act* limits an additional rent increase, per calendar year, to 3% in addition to the allowable annual increase, which is 2.3% for 2025. We have, therefore, limited the allowable rent to 5.3%, which equals a maximum rent of \$1,287.82 per month.

**d. Clause 50(3)(d) – expectation of tenants re annual guideline**

71. Finally, the new *RTA* requires a consideration of the expectation of the tenant(s) that rent increases will remain within the annual guideline. In 2025, the annual guideline increase is 2.3%<sup>11</sup>.

72. This is an important factor given that the legislators of the province decided to include it in the *RTA*, and the Commission recognizes that Tenants in general would prefer for increases not to exceed the annual guideline amount. In this case, the Commission notes that neither Tenant participated in this appeal matter and therefore no particular information has been presented as to the Tenants' expectations in this case.

73. Further, the Landlord did not request an Additional Rent Increase to be phased-in over a period of time, in accordance with clause 50(6)(c) of the *RTA*. Therefore, the current Additional Rent Increase is only a one-year increase.

74. Therefore, in the context of this matter, the Commission is satisfied that this factor does not outweigh the other factors to be considered when determining an appropriate rent increase.

**C. Weighing of the Factors and Approved Additional Rent Increase**

75. Based on the above, the Commission finds that a weighing of the factors and evidence in this case favour the Landlord's requested Additional Rent Increase.

76. In particular, the Landlord has invested in a rental property with a value of \$615,000 and, at present, his net income is just over \$20,000 per year for both Rental Units (this is *without* factoring in the interest or principal on his mortgage payments that equal \$16,257.84 per year). The Landlord did not obtain an Additional Rent Increase in the previous year, but did institute a substantial increase in 2022. In spite of that increase, the Landlord is still in a situation where his net income is only 3.3% of the value of the property.

77. In addition, in operating these two Rental Units, the Landlord is subject to the requirements of the *RTA* to maintain the Rental Units in a suitable state of repair. He also manages the property, and did not claim "management fees" in his annual operating costs (as permitted by the *RTA* and its Regulations). We also note that in doing so, the Landlord is also subject to the risks inherent with operating these properties, including that the legislation limits Additional Rent Increases to an extra 3%, regardless of the expenses the Landlord may incur. Even without an expert investment opinion, a return on investment of between 3.3% and 3.5% seems quite reasonable keeping these circumstances in mind.

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<sup>11</sup> *Residential Tenancy Act*, s. 49(4).

78. In light of the foregoing, the Commission finds that in the interest of preserving a stable supply of rental properties in PEI (or at least not decreasing the supply), the 4% ROI should be observed as a minimum and where same can be achieved while working within the 3% ceiling in the RTA, and in the absence of compelling information that would weigh against the Additional Rent Increase, the additional amount should be ordered.
79. As a final comment, we note that neither Tenant chose to come forward in this situation and object to the increase.
80. In conclusion, the Commission finds that the Landlord's requested Additional Rent Increase is warranted.

#### **D. Additional Commentary re Rental Office Forms and Application Process**

81. As a final comment, we wish to give the Director of Residential Tenancy some guidance on how to implement this Order moving forward. First, we suggest that the Director revise the relevant forms (e.g. Form 9 and Form 10) to reflect the findings herein. Further, we encourage that the Residential Tenancy Office's website be updated to include a clear explanation, to both landlords and tenants, about how requests for Additional Rent Increases will be decided and what information should be filed to support a landlord's request.

#### **F. CONCLUSION**

82. The Commission allows the appeal.
83. For certainty, the effective date of the maximum allowable monthly rent is January 1, 2025, for the purpose of clause 48(1)(a) of the *Residential Tenancy Act*.

#### **IT IS ORDERED THAT**

1. The appeal is allowed.
2. The maximum allowable monthly rent for 11 Cornwall Road, Cornwall, is \$1,287.82/month, effective January 1, 2025.
3. The maximum allowable monthly rent for 18 Heatherway Drive, Cornwall, is \$1,218.00/month, effective January 1, 2025.

**DATED** at Charlottetown, Prince Edward Island, July 15<sup>th</sup>, 2025.

#### **BY THE COMMISSION:**

[sgd. Kerri Carpenter]  
Kerri Carpenter, Vice Chair

[sgd. Murray MacPherson]  
Murray MacPherson, Commissioner

## NOTICE

Subsections 89 (9), (10) and (11) of the *Residential Tenancy Act* provides as follows:

89. (9) A landlord or tenant may, within 15 days of the decision of the Commission, appeal to the Court of Appeal in accordance with the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11, on a question of law only.

(10) Where the Commission has confirmed, reversed or varied an order of the Director, the landlord or tenant may file the order with the Supreme Court.

(11) Where an order is filed under subsection (10), it may be enforced as if it were an order of the Supreme Court.