



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: February 13, 2026

Dockets: LR25060

Type: Rental Appeal

INDEXED AS: William Irvine, Sam McNeill and Edmund McNeill v Tenants of the Units
2026 PEIRAC 6 (CanLII)
Order No: LR26-06

BETWEEN:

William Irvine, Sam McNeill and Edmund McNeill (the "Landlords")
Appellant

AND:

The Tenants of the Units (the "Tenants")
Respondent

ORDER

Panel Members:

Kerri Carpenter, Vice Chair
Pamela J. Williams, K.C., Chair

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

A. INTRODUCTION

1. This appeal was heard by the Commission on December 12, 2025, and asks the Commission to determine whether the Residential Tenancy Office (the “Rental Office”) erred in:
 - i) Finding that Unit 5 of the Residential Property had been subject to an unauthorized rent increase; and
 - ii) finding that the maximum allowable rents for the Rental Units are:

Unit	Rent
1	\$700.00
2	\$608.00
3	\$755.00
4	\$700.00
5	\$608.00

B. BACKGROUND

2. This appeal concerns five rental units located at 138 Lefurgey Avenue, Summerside, PEI (the “Rental Units”). The Rental Units are located in a five-unit building (the “Residential Property”) owned by the Landlords.
3. On August 6, 2025, the Landlords filed five *Form 9 Landlord Application to Request Additional Rent Increase* (the “Applications”) with the Rental Office. Five *Form 8 Notice of Annual Allowable Rent Increase* and the Applications were previously served to the Tenants on August 5, 2025, and August 6, 2025, respectively.
4. The Applications requested additional rent increases as follows:

Unit	Current Rent	Proposed Rent
1	\$684.00	\$720.00
2	\$594.00	\$626.00
3	\$738.00	\$777.00
4	\$684.00	\$720.00
5	\$850.00	\$895.00

5. The Landlords’ proposed rent increases exceed the allowable percentage established by section 49(4) of the *Residential Tenancy Act* for 2025, which was 2.3%. The Landlords requested an additional rent increase of 3%, pursuant to section 50 of the Act.
6. On September 26, 2025, the Rental Office sent the parties notice of a teleconference hearing scheduled for November 6, 2025.
7. On October 6, 2025, the Landlords provided the Rental Office with a *Form 10 Landlord Statement of Income and Expenses* (the “Statement”).
8. On October 29, 2025, the Rental Office sent the parties an updated notice of a teleconference hearing scheduled for November 6, 2025.

9. On October 31, 2025, the Rental Office emailed the parties a 47-page evidence package.
10. On November 6, 2025, Sam McNeill, representing the Landlords (McNeill), participated in a teleconference hearing before the Rental Office. The Landlord stated that he received a copy of the evidence package and that all the submitted evidence was included. The Tenants did not participate in the teleconference hearing before the Rental Office.
11. After the hearing, the Landlords and a Tenant provided additional evidence, which was added to the record and provided to all parties.
12. On November 19, 2025, the Rental Office issued Order LD25-405, which ordered that:
 - i) The lawful rent of Unit 5 was \$594.00 per month; and
 - ii) effective December 1, 2025, the maximum allowable rents for the Rental Units are:

Unit	Rent
1	\$700.00
2	\$608.00
3	\$755.00
4	\$700.00
5	\$608.00

13. The Landlords appealed Order LD25-405 on November 19, 2025.
14. The Commission heard the appeal on December 12, 2025, by way of telephone conference. McNeill attended the telephone hearing on behalf of the Landlords. Jared Hebert, the Tenant of Unit 5 (Hebert), attended the telephone hearing.

C. DISPOSITION

15. The appeal is allowed in part. With respect to the application for an additional rent increase, the Commission varies Order LD25-405, approving the full requested increase effective December 1, 2025.
16. With respect to the finding of lawful rent for Unit 5, the Commission has carefully reviewed this issue and has determined that there is insufficient evidence included in the record to make a finding about whether Unit 5 was subject to an unauthorized rent increase. This finding will be explained in more detail below.

D. ISSUES

17. There are two issues for the Commission to consider on this appeal:
 - i) Did the Rental Office err in finding that Unit 5 of the Residential Property had been subject to an unauthorized rent increase?

- ii) Should the Landlords be awarded an additional rent increase for the Rental Units in accordance with section 50 of the *Residential Tenancy Act*?

E. SUMMARY OF EVIDENCE

Landlord's Evidence

18. McNeill, who is one of the owners of the Residential Property, noted that the Landlords bought the Residential Property in good faith. He stated that without the full requested rental increase the Landlords will lose money each year. With respect to Unit 5, McNeill stated that he understands that the previous owner of Residential Property entered into an agreement with the Tenant to renovate Unit 5 and there was a rental increase. McNeill testified that when he considered purchasing the Residential Property, Unit 5 was listed as being \$850 per month and he relied on this information. When he then sought a lawful rent increase for all five units the Rental Office raised the issue of the rental rate history for Unit 5.
19. Under questioning from the Commission, McNeill confirmed that the Residential Property was purchased by the Landlords on July 30, 2025, as reflected by the deed contained in the evidence before the Commission. McNeill testified that the Landlords first collected rent August 1, 2025.

Hebert's Evidence

20. Hebert stated that he is neither disputing, nor opposed to, the rental increase to his Rental Unit. He stated that he had agreed with the previous landlord that the rent for Unit 5 would be increased to \$850 per month.

F. ANALYSIS

Issue (i): Was Unit 5 subject to an unauthorized rent increase?

21. Order LD25-405 concluded as follows:

[19] ... Despite the Landlord stating that the previous landlord increased the rent as a result of renovations, I find that there is insufficient evidence that the previous landlord received authorization from the Rental Office, under Part 3 of the Act, to increase the rent from \$577.00 to \$850.00, which is an increase of approximately 47.0%.

22. Based on a review of the evidence before the Commission, in particular the history of rent for the Rental Units, it appears that the rent for Unit 5 increased in 2024 from \$577/month to \$850/month. McNeill's evidence was that he was his understanding that this rent increase was related to renovations completed by the former landlord, and McNeill was under the impression the increase would have been lawful at the time.
23. Unauthorized rent increases are prohibited by the *Residential Tenancy Act*. The scheme is quite clear that landlords can only increase rent in accordance with the provisions of the Act. Nevertheless, for the reasons that follow, the Commission must overturn the finding in Order LD25-405 with respect to the unauthorized increase of Unit 5.

24. First, parties in administrative proceedings are entitled to notice of the matters in issue and the proposed decision to be made so that the parties can be prepared to present relevant information and submissions. Fairness requires that the parties have notice of the matters that will be heard and decided. In the present case, the Landlords were applying for a greater than allowable rent increase. The evidence before the Commission suggests that the matter of the lawful rent for Unit 5 was raised for the first time with the Landlords via email *after* the hearing at the Rental Office. Generally speaking, the question of an unauthorized rent increase would come before the Rental Office by an application by a tenant or former tenant, where a landlord would be fully aware of the question to be decided. However, that was not the case in the present circumstances.
25. Second, Order LD25-405 found that there was “insufficient evidence” to demonstrate that the previous landlord obtained an authorized rent increase. However, the Order does not outline what evidence was considered or what steps were taken to confirm (or not) any prior authorized rent increase. In the Commission’s opinion, Order LD25-405 does not include sufficient reasons with respect to the finding of lawful rent to allow the Commission to carry out its appellate function on review.
26. On the Commission’s own review of the of evidence that was before the Rental Office, we find the evidence to be lacking. For example, there was no evidence from the prior landlord (or tenant) as to whether application was made for an authorized increase, no evidence about the nature of the renovations, nor any discussion about whether the services or facilities included in the rent may have changed.
27. The Commission is an intermediate appellant tribunal with some latitude to cure procedural and evidentiary defects in the original hearing. The Commission understands the desire to identify and remedy unauthorized rent increases on the part of the Rental Office. However, in this case, the Commission is of the opinion that the defect in fairness is of such a degree that the Commission’s appeal process is not a cure.¹ For example, while the matter was before the Commission on appeal, the Landlords did not have a fair opportunity to address the question before the first instance decision-maker, being the Rental Office. The Commission, therefore, finds it would not be appropriate to hear the question for the first time on appeal. In conclusion, the Commission finds that there is insufficient evidence on the record to make any finding about the lawful rent for Unit 5. Compounded with the lack of notice to the Landlords that this issue would be heard and decided, the Commission finds that finding must be overturned.
28. As a final note on this issue, the Commission notes that the Director is authorized under the *Act* to conduct investigations to ensure compliance with the *Act*. Further, tenants may also make application to the Rental Office pursuant to section 75 of the *Residential Tenancy Act* to seek a return of rent as a result of an unauthorized rent increase.
29. As new landlords, the Commission encourages the Landlords to review the *Residential Tenancy Act* and educate themselves about lawful rent increases in accordance with the *Act*.

¹ *Perry v. Kings Square Affordable Housing Corporation*, 2023 PESC 32, at para 37.

Issue (ii): Landlords' Applications for additional rent increase

30. 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.

31. 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 (section 4) 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. This factor will be discussed in more detail below.

32. In Order LD25-405, the Officer considered each of the factors, weighed them against one another, and concluded that the evidence did not support the requested additional rent increase.

33. On review, the Commission generally agrees with the Officer's assessment of the four factors set out in clauses 50(3)(a) through (d) of the Act. That said, the Officer's observations concerning clause 50(3)(b), in particular respecting the Landlords' limited documentary evidence to establish changes in operating expenses and capital expenditures over the three years preceding the date of application, can be a common issue where the landlord has recently purchased a residential property. Accordingly, while still a valid factor, the Commission is inclined to place reduced weight on this particular factor given the present factual situation of a recent purchase.

34. The Officer also found that the Landlords' recent purchase of the Residential Property was a factor that weighed against the Landlords' request for the proposed rental increases sought under section 50 of the Act.

35. As noted above, subsection 50(4) provides the Director with discretion to consider any other relevant factor when determining an application for an additional rent increase (clause 50(4)(a)). The Officer was not obligated to consider any other relevant factors at the hearing. However, the Commission, on appeal, may choose to do so.

36. In the present appeal, the Officer determined that the Landlords' Return on Investment (ROI) without any rental increases was 2.2%. The Landlords' ROI rose to 2.6% with the requested 5.3% rent increase. Citing a prior Order of the Commission (Order LR25-31), the Officer noted that the range for a reasonable ROI is 4.0% to 7.0%.

37. We pause here to note specifically what the Commission said in Order LR25-31 about the reasonable ROI a landlord can expect:

[60] ... 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.

38. From the Commission's perspective, the Landlords' projected ROI at 2.6% is far below the 4.0% considered to be reasonable.

39. The Commission takes notice that the rents for the 5 units are all under \$1,000 per month even with the full requested increases. An ROI of less than 2.6% creates, in the Commission's view, a serious concern about the economic sustainability of the Residential Property. While reasonable rents for tenants is always a laudable objective, the availability of safe affordable rental housing is also important. When a landlord's ROI sinks too low, the possibility of rental properties exiting the market, or such properties not receiving necessary maintenance to remain safe, logically increases. The ROI calculation is so below the acceptable range that the Commission applies more weight to this factor than the others and, therefore, the Commission finds that requested additional increase is justifiable.

40. The Commission acknowledges that section 4 of the Regulations contemplates a landlord should not require a rent increase within the first year of purchase. However, section 4 is discretionary and in the present circumstances, for the reasons outlined above, the Commission weighs the factors outlined at section 50 against section 4 of the Regulations. We are not satisfied that the recent purchase outweighs the other factors, in this case.

41. Accordingly, the Commission allows the appeal and sets the maximum allowable rents as follows, effective December 1, 2025:

Unit	Rent
1	\$720.00
2	\$626.00
3	\$777.00
4	\$720.00
5	\$895.00

G. CONCLUSION

42. The Commission approves the full requested rental increase of 5.3% effective December 1, 2025.

43. The Landlord is reminded that per section 48 of the *Residential Tenancy Act*, a landlord may only impose one rent increase in every 12-month period.

IT IS ORDERED THAT

1. The appeal is allowed.

2. Effective December 1, 2025, the maximum allowable rents are as follows:

Unit	Rent
1	\$720.00
2	\$626.00
3	\$777.00
4	\$720.00
5	\$895.00

DATED at Charlottetown, Prince Edward Island, 13th day of February, 2026.

BY THE COMMISSION:

[sgd. Kerri Carpenter]
Kerri Carpenter, Vice Chair

[sgd. Pamela J. Williams, K.C.]
Pamela J. Williams, K.C., Chair

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.