



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: O

Introduction

This hearing dealt with an application by the landlord for an additional rent increase. The landlord requested the additional increase on two grounds: (1) the landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that (a) could not have been foreseen under reasonable circumstances, and (b) will not recur within a time frame that is reasonable for the repair or renovation; and (2) the rent for the rental unit is significantly lower than the rent payable for other rental units similar to and in the same geographic area as the rental unit in question.

An agent for the landlord and the tenant both submitted documentary evidence and gave affirmed testimony in the teleconference hearing.

Issue(s) to be Decided

Is the landlord entitled to an additional rent increase under either of the two grounds claimed?

If an additional rent increase is warranted, by what amount should the rent be increased?

When should the increase take effect?

Background and Evidence

The tenancy began on September 1, 2003. The rental unit in question is a one bedroom apartment in City A. The monthly rent at the outset of the tenancy was \$385. The rent was increased once in September 2007 to its current rate of \$400 per month.

The landlord seeks to increase the monthly rent to \$600.

The landlord's evidence on significant repairs or renovations was as follows. When the building was purchased, work was required to bring the building to a good standard. In February 2007, the landlord replaced smoke detectors in every suite and the common areas of the building. In October 2007 the exterior of the building was pressure washed, some roof repairs were conducted and the exterior balcony rails were tightened. In June 2008 the entry phone system for the building and the entry door were repaired. The landlord provided receipts for all of this work. The landlord also provided estimates for further work which needs to be done to install tiles in the front entrance of the building and fencing at the front of the building.

The landlord's evidence on comparable rent was as follows. The building in which the rental unit is located has 14 units, 10 of which are one-bedroom units. The landlord has been carrying out renovations on each of the rental units, and six of the XX units have been renovated. The rental unit in question has not been renovated. The three other one-bedroom units that have not yet been renovated are all located on the second floor of the building, and the current rent for those three units is \$540, \$550 and \$561. The rental unit in question is located on the third floor, the top floor of the building. There are three other one-bedroom units on the third floor of the building, all of which have been renovated, and all of which have a monthly rent of \$600. The landlord did not provide direct evidence of other comparable rental units other than those in their building, but they provided a newspaper article from the City A Citizen dated December 12, 2008, which indicate that the current average rent for one bedroom apartments is \$598.

The tenant's response was as follows. The building has several issues, specifically: there are tenants with pets; the building constantly smells like pot; there is lots of music and parties after hours; there are only one washer and one dryer for 14 units, and the cost to do one load is \$5.75; the garbage bins are constantly over-full; there are strange people constantly in the foyer, and prostitutes use the parking lot to conduct their business and then throw used condoms, beer cans and the contents of their ashtrays into the parking lot; there is a very high turnover of tenants in the building; and there are

cigarette burns on walls and carpets. In regard to the tenant's apartment, his oven hasn't worked properly for six months; there is significant frost build-up on his windows; other tenants or their guests are constantly parking in the tenant's parking stall and plugging their cars into his outlet; and the landlord has refused to do any renovations to the tenant's unit as a result of a residential tenancy hearing in February 2008 where the tenant successfully challenged a notice to end tenancy for renovations.

The tenant also provided a list of five comparable one-bedroom apartments with rents ranging from \$400 to \$470. The tenant's comparables are not located in the same neighborhood of City A as his rental unit. The landlord's response was that the tenant's comparables are not in very nice neighborhoods.

Analysis

In regard to the landlord's claim on the ground of significant repairs or renovations, I find that the landlord has not provided sufficient evidence. The repairs or renovations that the landlord has carried out or plans to carry out cannot be characterized as "significant," but as general upkeep. Further, the landlord could or ought to have foreseen upon purchase of the building that it would require these repairs or renovations. I therefore decline to grant an additional rent increase on the ground of significant repairs or renovations.

In regard to the landlord's claim on the ground of significantly lower rent than comparable units, I find that the landlord has established that the market rent of the rental unit in question is significantly lower than comparable units. The current rent of the 3 one-bedroom units that are not yet renovated range from \$540 to \$561. I therefore find that a rent increase from \$400 to \$550 is appropriate for this rental unit. The rent will continue to be applicable to all services and facilities that were included in the original terms of the tenancy agreement, and the landlord and tenant will continue to hold all of the rights and responsibilities set out in the Act, regulation and tenancy agreement, including the tenant's right to quiet enjoyment and the landlord's duty to carry out necessary repairs on the rental unit. Having considered the fact that the

landlord could have but chose not to give notice of permissible rent increases on an annual basis, I find it appropriate to phase in the rent increase.

Conclusion

I order that the rent increase be phased in over a period of 18 months. The landlord must serve on the tenant a notice of rent increase in the prescribed form together with a copy of this decision. The first notice will increase the rent to \$450 per month and will take effect 3 full months after the notice is served. After the first rent increase has taken effect, the landlord may serve another notice of rent increase in the prescribed form which will take effect no earlier than 6 months after the first notice has taken effect and no earlier than 3 full months after the landlord serves the notice. The second notice will increase the rent to \$500 per month. After the second increase has taken effect, the landlord may serve another notice of rent increase in the prescribed form which will take effect no earlier than 6 months after the second notice has taken effect and no earlier than 3 full months after the landlord serves the notice. The third notice will increase the rent to \$550 per month.

For the sake of clarification, if the first notice is served in the month of January 2009, the first rent increase will take effect May 1, 2009. If the landlord serves the second notice in July 2009, the second rent increase will take effect November 1, 2009. If the landlord serves the third notice in January 2010, the third rent increase will take effect May 1, 2010.

Dated: January 23, 2009