



Dispute Resolution Services

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

DECISION

Dispute Codes: O (Additional rent increase)

Introduction

This application was brought by the landlord seeking authorization to implement an additional rent increase as permitted under section 43(3) of the *Act*.

This provision permits a landlord to apply for a rent increase beyond the regulated maximum (currently 3.7%) under circumstances specified at Regulation 23. In this instance the landlord's application is based on Regulation 23(1)(a) which provides for such an application where, even after the approved increase, rents are significantly lower than those of comparable units in the same geographic area.

Background and Evidence

The rental unit in question is one of five town homes on the rental property built in the 1940's. The tenancy began on January 1, 2001 at a monthly rent of \$690 which increased incrementally to the present rent of \$760 in 2006 and there were no increases in 2007 or 2008. The tenants pay utilities. The parties disagree on the size but concur that it is a two bedroom unit in the order of 1100 to 1200 square feet.

In the present application, the landlord seeks authorization for an additional rent increase of 29 per cent or \$220 to a total of \$980 per month.

During the hearing, the landlord submitted evidence of six comparable units in the immediate and general area:

1. A neighbouring, 100-year-old small duplexed house in which the upper 900 to 950 square-foot unit rents for \$1,260 per month plus utilities;
2. A two-bedroom basement suite at \$1,195 per month;
3. A nearby 900 square foot, two bedroom apartment over a grocery store at \$1,050 per month;
4. A two-bedroom lower suite in a 1928 character home of 800 square feet at \$1,200 plus hydro;
5. The upper two bedroom unit a heritage house of 1,200 square feet at \$1,500 plus utilities;
6. A two-bedroom basement suite at \$1,000 per month.

The tenants opposed the application on the grounds that other units in their complex were rented for between \$660 and \$840 per month, although the lesser expensive are much smaller than the subject unit. The landlord stated that she planned to make similar application for those units in the fall and pointed out that she needed to charge rents closer to market value as her husband, now 65, was less able to do so much of the maintenance himself and that the cost of services and trades had escalated.

The tenants also submitted photographic evidence that they had, with the landlord's consent, done substantial improvements to the rental unit. For example, they finished the lower part of the unit at a cost to them of approximately \$3,000 plus labour and had invested considerable time and money in upgrading the back yard, among others.

They stated that they had routinely done a great deal of extra work in the complex until recently.

The parties had had a falling out resulting in three recent hearings in which two notices to end tenancy for cause were set aside and an improperly served notice of rent increase had been reversed. The tenants suggested the present application was retaliatory.

Analysis

I find that the landlord has proven that the current rent for the subject rental unit is significantly lower than the prevailing market value as stated at *Regulation 23(1)(a)*. After taking into account the factors I am directed to consider under section 23(3), including the submission from the tenants, I find that the landlord is entitled to an additional rent increase. *Regulation 23(4)* states that I may make a determination to grant all or part of the requested increase.

Conclusion

Accordingly, the landlord is hereby authorized to implement an additional rent increase of \$100 per month. This means that the landlord may now serve the required three-month notice of the additional rent increase to the affected tenants advising that rent will rise to \$860 per month.

January 28, 2009

Dispute Resolution Officer