



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

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Introduction

This hearing dealt with an application by the landlord seeking an additional rent increase beyond that prescribe amount for 2009 of 3.7%. Both parties appeared for the hearing and were provided the opportunity to be heard and to respond to the evidence of the other party.

Issue to be Determined

Is the landlord entitled to an additional rent increase?

Background and Evidence

All of these tenancies have been long term beginning between 1994 to 2003. All the current monthly rents for the units are in the \$900 to \$1,000.00 range. The current landlord purchased the rental building in March 2008.

All of the tenants have already been served with a three month Notice to Increase Rent by the prescribed amount of 3.7% which will take effect on June 1, 2009. In addition to this sum the landlord filed this application seeking an additional rent increase for all four units.

The only evidence provided by the landlord in support of this application was a letter dated March 24, 2009. In this letter the landlord identifies that they have recently rented a similar unit in the same building for the monthly rent of \$1,275.00. Based on this perceived market rate the landlord seeks to have all the other units rent raised to the same amount. The landlord made comment in this letter that they are effectively subsidizing the other tenants' rent. The landlord made the rationalization that because the property's market value has declined and municipal bylaws are preventing other avenues of re-zoning the building, the tenants were somehow being subsidized by the landlord's loss on its investment.

The tenants' provided extensive evidence in response to this applications which included examples of maintenance issues and reduction of services, called into question the landlord's evidence that the rental units were 1,200 square feet and provided examples of rent from similar units in the same geographic area.

Analysis

I deny the landlord's request for an additional rent increase. The landlord has failed to provide any evidence showing exceptional circumstances to support an additional rent increase of almost 40% in addition to the prescribed 3.7% allowed for 2009. The only evidence provided by the landlord to support this request was that they were able to rent another, similar unit, in the same building at \$1,275.00 per month.

The *Residential Tenancy Policy Guidelines Manual*, section 37, clearly sets out the criteria that the landlord must meet to prove there are exceptional circumstances for an additional rent increase on the basis that the current rents are significantly lower. The policy states in part:

If a landlord wishes to compare all the units in a building to rental units in other buildings in the geographic area, he or she will need to provide evidence not only of rents in the other buildings, but also evidence showing that the state of the rental units and amenities provided for in the tenancy agreements are comparable.

The rent for the rental unit may be considered "significantly lower" when (i) the rent for the rental unit is considerably below the current rent payable for similar units in the same geographic area, or (ii) the difference between the rent for the rental unit and the current rent payable for similar units in the same geographic area is large when compared to the rent for the rental unit. Additional rent increases under this section will be granted only in exceptional circumstances. **It is not sufficient for a landlord to claim a rental unit(s) has a significantly lower rent that results from the landlord's recent success at renting out similar units in the residential property at a higher rate.**

[Emphasis Added]

I also reject the landlord's position that an additional rent increase is warranted on the basis that the landlord is providing subsidized housing. The tenants, of course, are not responsible for carrying the landlord's risk as the owners of the property. I do not accept the landlord's reasoning that because they cannot realize the expected return on investment this equates to the tenants' benefiting from subsidized rent.

In the absence of any evidence from the landlord showing that the rents in this building are significantly lower than those of other similar units in the same geographic area, I deny the landlord's application.

Conclusion

The landlord has failed to establish that the rents in this building are significantly lower than of similar units in the same geographic area and the landlord's application is denied.

Dated May 22, 2009.

Dispute Resolution Officer