

DECISION

Dispute Codes O

Introduction

This hearing dealt with the Landlord's Application for an Additional Rent Increase.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

After a rent increase permitted by the Regulation, is the rent for the subject rental unit significantly lower than rent payable for other rental units similar to and in the same geographic area as the subject rental unit?

Background and Evidence

The Landlord is applying to increase the monthly rent for the subject rental unit from \$866.00 including utilities, to \$1,095.00 plus utilities, for an increase of 26.45%, plus utilities. The allowable increase under the Regulation to the Act for the current year is 3.7%

I will only deal with the Landlord's Application with respect to the additional monthly rent requested. I dismiss the portion of the Landlord's Application where he attempts to terminate or restrict utilities from being included in the rent, and have the Tenants pay their own utilities, as restriction and termination of services or facilities are addressed in section 27 of the Act and are not appropriate for an Application of this type.

The Landlord purchased the property, an 1893 mansion conversion with 6 units, in June of 2007.

In evidence, the Landlord has provided six different comparable rental units. I find that one of the comparables provided by the Landlord is not valid, as it is an ad placed by renters seeking a rental unit. Therefore, I find the Landlord has provided five comparable units.

The five units are all generally similar to the subject rental unit and are sufficient for comparative purposes.

The units found geographically closer to the subject unit have more expensive rents than those farther away.

The rent payable on the five rental units ranges from \$975.00 to \$1,495.00, for an average of \$1,124.00 per month.

The Landlord testified that the previous owner had failed to do much maintenance to the building over the years. The Landlord started upgrade and maintenance work on the building shortly after purchasing it, and this work continues. He chose not to evict the Tenants or other renters at the building during this work.

The Tenants explained they had moved into the unit some 26 years ago. Neither the Tenants, nor the Landlord, provided any evidence about the frequency of rent increases at the subject rental unit over the years. The Tenants are concerned that the Landlord wants to raise the rent while still doing the work described above.

Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find that the rent for the subject rental unit is significantly lower than rent payable for other rental units similar to and in the same geographic area as the subject rental unit.

I allow the Landlord's Application as I find this is an exceptional situation, considering the duration of the tenancy, the length of time over which the Tenants have paid significantly lower rents and the other circumstances of the tenancy. I find that the amount of increase requested by the Landlord is sufficient to bring the rent into line with comparable units, and is not simply the highest rent charged for the comparable units.

I find that the Landlord may increase the rent payable for the subject rental unit to \$1,095.00, being an increase of 26.45%. Pursuant to section 42 of the Act, the Landlord must give the Tenants at least 3 months Notice before the effective date of the increase, along with a copy of this Decision.

Conclusion

The Landlord's Application is allowed, and the rent may increase by 26.45% to \$1,095.00 per month. The Landlord must comply with the Notice provisions in section 42 of the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 20, 2009.

Dispute Resolution Officer