

## **DECISION**

**Dispute Codes:** O (Additional rent increase)

### **Introduction**

This application was brought by the landlords 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 3.2%) 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, rent is significantly lower than that of comparable units in the same geographic area.

### **Background and Evidence**

The rental unit in question one of two three-bedroom units in a duplex.

Rent for the adjoining duplex which has turned over three or four times since the landlords purchased the building seven years ago is \$850 per month.

The subject tenancy began August 1, 2005, nearly five years ago. Initially rent was \$625 per month which has grown to \$675 per month by way of two increases, one in October of 2007 and the other, March 1, 2009.

During the hearing, the landlord's gave evidence that, even the more expensive side of the duplex, is rented at substantially below local market values and cited two-bedroom apartments renting for \$1,100 locally.

The landlords stated that they are very pleased with the stable, long term tenant, but that rising costs have overtaken their balance sheets to the point where they have ask for an increase beyond the annual allowable increase, but to a point still well below market values.

The landlords seek to raise the rent from \$675 by the 3.2 percent allowable annual increase plus an additional 15.8 percent to a total of \$803.25.

The tenant spoke to the increase from the perspective that it was coming at a bad time, and that she had had concerns over the fact that the back door to the rental unit is a sliding glass door that can only be locked by placing a stick in it. The tenant concurred that her unit was quite similar to the adjoining unit with some exceptions such as laminate flooring next door compared to linoleum in her unit. In addition to the new flooring, the landlord had rebuilt her back deck in the previous year.

During the hearing, the landlord promised to replace the back door by July 2010 with a model that could be locked and entered with a key from the outside.

## **Analysis**

*Regulation 23(3)* prescribes that factors that must be taken into account when evaluating an application on the grounds that, after the annual rent increase the rent for the rental unit is significantly lower than other similar rental units in the same geographic area.

I find the following to be applicable:

- (a) the rent payable for similar rental units in the residential property immediately before the proposed increase is intended to come into effect;
- (b) the rent history for the affected rental unit in the 3 years preceding the date of the application;
- (d) a change in operating expenses and capital expenditures in the 3 years preceding the date of the application that the director considers relevant and reasonable;
- (e) the relationship between the change described in paragraph (d) and the rent increase applied for;
- (f) a relevant submission from an affected tenant;
- (h) whether, and to what extent, an increase in costs with respect to repair or maintenance of the residential property results from inadequate repair or maintenance in a previous year;

In a circumstance in which a landlord relies on recent rent rates obtained in the rental building in question, Residential Policy Guideline 37 advises:

“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. However, if a landlord has kept the rent low in an individual one-bedroom apartment for a long term renter (i.e., over several years), an Additional Rent Increase could be used to bring the rent into line with other, similar one-bedroom apartments in the building.”

I find that the landlords have established that the rent has been lower over several years and that an additional increase is justified to bring the rent closer to that of the adjoining unit while maintaining some recognition of the longer term tenant. I find that a rent of \$50 less than the current rent of the adjoining unit is appropriate.

Regulation 23(4)(d) authorizes that, on approving an additional rent increase, I may also issue an "order that the effective date of an increase granted under subsection (1) is conditional on the landlord's compliance with an order of the director respecting the residential property."

Accordingly, I find that the rent increase is granted on the condition that the landlords keep to the promise to replace the back door to the rental unit with a reasonable locking model. I trust the parties will consult with one another in selecting a suitable door.

## **Conclusion**

**I hereby authorize and order** that the landlords may now serve the required three-month notice of rent increase to the affected tenants advising that rent will rise to \$800 per month. This authorization is conditional, and the increased amount need not be paid by the tenant unless and until the back door has been replaced as promised.

April 16, 2010