



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      O, ARI

### Introduction

This hearing dealt with the Landlord's Application for an Additional Rent Increase, pursuant to section 35 of the *Manufactured Home Park Tenancy Act* (the "Act").

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.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I also note that during the course of the hearing it was determined that two of the rental sites named in the Application, numbers 188 and 290, should not have been included in this matter. Rental sites 188 and 290 are sites where residential tenancies exist, and therefore, I dismiss this Application against those two sites. However, I note it is still open to the Tenants of sites 188 and 290 to make agreements in writing with the Landlord regarding a rent increase, under section 43 of the *Residential Tenancy Act*.

### Issues(s) to be Decided

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

Has the Landlord shown that significant repairs have been completed which were reasonable and necessary and will not recur within a time period which is reasonable for those repairs?

### Background and Evidence

The Landlord is applying to receive a rent increase of 13.8%, comprised of the allowed increase of 3.2%, plus 10.6%, to apply against 65 of the rental sites in the park. The Landlord's evidence is that, of the 95 sites in the park, 30 sites have already agreed to the rent increase.

The Landlord increased the rents for all sites in the park by the amount permitted under the Act in 2007 and in 2008.

The Landlord has put forward two reasons for the request for an additional rent increase.

First, the Landlord claims that when comparing the sites in this park with comparable sites in other parks, the rent is significantly lower for the subject sites. In support of this, the Landlord entered into evidence several "form letter" questionnaires, which were sent to approximately eight other manufactured home parks in the area. The form requests the recipient to reply to these two questions:

"[What is the] Present monthly pad rent"; and  
"[Is] Cable provided yes/no?"

Based on the responses to the questionnaires the Landlord explained the average rent for these sites is \$360.00. The Landlord submits that the present rent of \$290.00 for the subject sites is significantly lower than the average rent of the comparables, at \$360.00.

The Landlord also submits that the rent for the sites in the subject park includes basic cable TV, while none of the responding comparable parks provide free basic cable TV.

In reply to the first ground for an additional rent increase, the Tenants argued that the comparable sites used by the Landlord are less than 50% of the parks in the area. The Tenants also argue that there is too little information provided about the comparable sites to make an accurate comparison between the subject park and the comparable parks. For example, the Tenants point out that there is no information provided on the size of the lots, the facilities provided, if there are water views, or the proximity to other services and facilities.

The second reason submitted by the Landlord for the additional rent increase, is that there has been considerable work done on the septic field, which services a little more than half of the sites in the park. The Landlord explained that the septic field for the

park was installed in 1978. Over the past three years the Landlord claims to have spent more than \$230,000.00 to repair and upgrade the septic field. The Landlord explained the life expectancy of the new septic field is 20 years. In support of the costs of the repairs the Landlord submitted in evidence over 200 pages of invoices and receipts. This evidence was also made available to the Tenants at the park at the hearing.

The Tenants argue that the replacement of the septic field is a cost that the Landlord should have been preparing for over the past years. The Tenants used the analogy of how a strata corporation is required to have a contingency fund for major repairs. The Tenants argue that a business should expect significant repairs to be made to its infrastructure and would budget accordingly over time. The Tenants also argue that there are different septic fields in the park which may require replacement or repairs as well. They questioned whether the Landlord would make an application to increase the rents each time one of the other septic fields are replaced or upgraded.

The Landlord argued in reply that they are not allowed to charge rent in advance for such projects and that the cost of an expenditure like the septic field is usually amortized over 20 years.

### Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find as follows:

I find the Landlord had insufficient evidence to prove the rent for the subject rental sites is significantly lower than rent payable for comparable sites similar to and in the same geographic area as the park, and therefore, **I dismiss this portion of the Application.**

The Landlord has the burden of proof to show the comparable sites, within the same geographic area, have the same or similar characteristics. The Landlord has failed to provide evidence of the geographic area where the comparable sites are located in relation to the subject park. There is also no evidence of the age of these comparable parks, or other characteristics such as proximity to parks, shopping areas and other facilities.

I find the Landlord has sufficient evidence to prove that the repairs to the septic system were significant and **I allow this portion of the Application.** Based on the expected benefit to the park over the next twenty years, the large expenditure incurred, and the scope of the septic field repairs, I find the Landlord has completed significant repairs to the park. I do not find that the significant repairs required could have been foreseen

under reasonable circumstances. There is also no provision in the Act requiring the Landlord to establish a contingency fee for such repairs, as this would amount to something similar to requiring Tenants to pay rent in advance, as suggested by the Agent for the Landlord. I further find the repairs made were reasonable and necessary.

**Therefore, I allow an additional rent increase of \$20.00 per month for the subject sites.**

This amount is comprised of the allowable increase of 3.2%, plus a portion of the requested additional increase, in the amount of 3.7%, granting the Landlord an increase of 6.9% or approximately \$20.00 per month.

The Landlord must serve each of the Tenants with a copy of this entire Decision along with a copy of the Notice of Rent Increase. The Landlord must provide the Notice of Rent Increase in accordance with the Act, which, for example, requires three months notice in advance of the increase taking place.

#### Conclusion

I find the Landlord had insufficient evidence to prove the rent for the subject sites is significantly lower than comparable sites.

I find the Landlord incurred significant, reasonable and necessary expenses in repairing the septic field.

I allow the Landlord an additional rent increase in the amount of \$20.00 per month for the subject rental sites.

The Landlord must serve the Tenants with a Notice of Rent Increase in accordance with the Act, along with a copy of this entire Decision, granting the additional rent increase.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9 of the *Act*.

Dated: April 16, 2010.

---

Dispute Resolution Officer