

Introduction

This hearing was convened upon the application of the landlord seeking an additional rent increase. Under the Residential Tenancy Act the landlord is able to apply a rent increase of 3.2% or \$31.52 per month raising the rent from \$985.00 to \$1,016.52. However, the landlord wishes to raise the rent to \$1,300.00 per month, an increase of 31.2% or \$275.80 per month.

The landlord testified that he served the tenants with the hearing package by sending it by way of registered mail which is a proper method of service under the Act. The tenants did not appear. Although they did not appear I find that they were duly deemed served with notice of this hearing.

The landlord gave evidence under oath.

Summary of Background

The landlord purchased the rental building in April of 2010. It is a duplex and the east half is a 2 bedroom unit with a full basement and yard. The landlord submits that he determined the market value of rent in the area for a similar unit as being \$1,300.00 per month. The landlord submits that he arrived at this valuation by looking on Craig's List and in the Vancouver Sun newspaper. The landlord said they had 40 people interested in the rental property at that price. The landlord submits that the building is in an up and coming area close to schools and transit.

In contrast the landlord says the tenants in the other side of the duplex pay \$985.00 in rent. These tenants have lived in the rental unit for six years. The landlord says their unit is located on the quieter side of the building and they believe it's market value is at least \$1,300.00.

The landlord submits that the rent of this unit is below market value. Further that they have made significant repairs to the property such as repairing/replacing the drain tiles at a cost of \$23,155.46, cementing at a cost of \$1,645.35 and miscellaneous safety fixes to exterior doors, dead bolts and adding stove hood fans at a cost of \$2,000.00.

Finally the landlord says there has been an increase in financing costs. The landlord purchased the property on April 29, 2010 with a variable mortgage rate of 3.25 and that this rate may go up over time. If this happens the landlord says his operating and financing costs are such that he would have to raise the rent to even be able to break

even. The landlord submits that he just wishes to break even and not lose money on this.

Legislation

Amount of rent increase

43 (1) A landlord may impose a rent increase only up to the amount

- (a) calculated in accordance with the regulations,
- (b) ordered by the director on an application under subsection;
- or
- (c) agreed to by the tenant in writing

(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.

(3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

Findings

The Residential Tenancy Act allows a landlord to apply to a Dispute Resolution Officer for approval of a rent increase in an amount that is greater than the basic Annual Rent Increase. The policy is to allow the landlord to apply for dispute resolution only in “extraordinary” situations. The Residential Tenancy Regulation sets out the limited grounds for such an application. In this case the landlord has applied under the grounds that:

1. After the rent increase permitted by the Regulation, the rent for the rental unit is significantly lower than the rent payable for other rental units similar to and in the same geographic area as this rental unit;
2. That the landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that could not have been foreseen under reasonable circumstances, and which will not recur within a time period that is reasonable for the repair; and
3. That the landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property if the financing costs could not have been foreseen under reasonable circumstances.

With respect to ground 1, the landlord's states that the rent for this property is significantly lower than similar units and the landlord has supplied one comparable being another unit in the same building. This although the regulation stipulates that property must be significantly lower than similar "units". The landlord submitted that he was not aware that he would have to supply multiple comparables as evidence. However, the landlord, having brought this claim, bears the burden of proving the claim. He must therefore bring the necessary evidence to do so and I find he has not. The landlord's application on this ground is dismissed.

With respect to ground 2, although the landlord has submitted that he has completed significant repairs to put the property back into good shape including a large expenditure of \$23,000.00 for new drain tiles, new front doors and dead-bolts, hood fans over the stove, a cedar hedge for safety and privacy, new sod, fixing and replacing cement steps and exterior paints. Much of which appear to be maintenance issues or upgrading, however, in any event, the landlord has supplied insufficient evidence to show that these repairs could not have been foreseen. On this ground the landlord's application is dismissed.

Finally, with respect to ground 3 the landlord submits that they have a variable rate mortgage currently at 3.5% but this may go up over time in which case their operating and financial costs would be such that they would not break even and may lose money on the property. However they have failed to supply sufficient evidence to show that this has actually happened or that, acting reasonably, they have incurred a financial loss for the financing costs of purchasing or remortgaging the property or that the financing costs could not have been foreseen. On this ground as well, the landlord's application is dismissed.
