



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes**      O

### **Introduction**

This is the Landlord's Application for an Additional Rent Increase.

Both Tenants were served with the Landlord's Application, Notice of Hearing document and evidence, by registered mail within the time frames allowed.

### **Preliminary Matter**

The Tenant's agent testified that the Tenant in #74 (JW) had entered into an option to purchase the rental unit from the Landlord and that therefore the Act does not have jurisdiction with respect to his home.

The Landlord testified that when he first rented the rental to JW, the Tenant did have an option to purchase the manufactured home. Several more options to purchase were drafted, but JW did not perform and the contracts expired. The last offer to purchase expired on February 23, 2010. The Landlord testified that each time he made it clear to JW that the option to purchase was not a contract of purchase and sale and that JW had no equity in the manufactured home.

The Tenant provided copies of the following Contracts of Purchase and Sale in evidence:

1. Dated August 21, 2006, for \$55,000.00, sale to be completed September 8, 2006, subject to financing by August 30, 2006;

2. Dated January 8, 2007, for \$55,000.00, sale to be completed January 31, 2007, subject to financing by January 19, 2007, extended to February 7, 2007; and
3. Dated February 6, 2007, for \$58,000.00, sale to be completed February 23, 2007, subject to financing by February 16, 2007. (Further to this agreement, on February 8, 2007, the Landlord gave the Tenant free pad rental for a year in the amount of \$3,000.00 by way of a "credit" towards the purchase price).

None of the Contracts required the Tenant to pay a down payment. The last Contract provided the Tenant with a \$3,000.00 "credit" for pad rental, but increased the purchase price by the same amount. I find that the Tenant had no equity in the manufactured home and that all of the Contracts expired before they were fulfilled. Therefore, I find I do have jurisdiction to hear this matter.

### **Issues(s) to be Decided**

Is the Landlord entitled to a rent increased pursuant to the provisions of Section 43(3) of the Act and Section 23 of the Regulation?

### **Background and Evidence**

The Landlord testified that he was making this Application for Additional Rent Increase because after the rental increase permitted by the Regulation, the rent for the rental units is significantly lower than the rental payable for other rental units similar to and in the same geographic area, as the rental unit.

The Landlord testified that there have been annual increases, to the maximum allowed under the Act and Regulations, for the past three years.

With respect to rental unit #8, the Landlord provided 15 examples of similar rental units in a nearby mobile home park. The current rent for #8 is \$374.00 per month. The Landlord pays the pad rent, which is \$252.00 per month, so his effective rent is \$122.00

per month. Comparable properties rent for an average of \$661.00 per month. The Landlord seeks to increase the Tenant's rent by \$137.00 per month to \$500.00 per month. The Tenant in #8 agreed that this was fair. The Tenant stated that her kitchen counter was in need of repair. The Landlord gave assurances that he would make repairs to the kitchen counter.

With respect to rental unit #74, the Landlord provided 2 examples of manufactured homes of the same size in the same park (#58, 122) and in the nearby park (#72):

Unit number	Description	Rent
#74 (subject property)	1994 – 16' wide 3 bedroom, 2 bathroom	\$667.00 Plus utilities
#58	1994 – 16' wide 3 bedroom, 2 bathroom	\$1,040.00 Plus utilities
#122	1988 – 16' wide 3 bedroom, 2 bathroom	\$1,000.00 Plus utilities
#72	1990 – 16' wide 3 bedroom, 2 bathroom	\$1,150.00

He also provided comparables in the surrounding area, as follows:

Unit number	Description	Rent
#9 (five minutes away)	1974 – 12' wide 3 bedroom, 1 bathroom	\$1,300.00 Incl. utilities
#3 (fifteen minutes away)	1974 – 12' wide 2 bedroom, 1 bathroom	\$900.00 Plus utilities

The current rent for #74 is \$667.00 per month. Comparable properties rent for an average of \$1,038.00 per month. The Landlord seeks to increase the Tenant's rent by \$333.00 per month to \$1,000.00 per month. The Tenant's agent stated that it is easier for some tenants to pay higher rent, but the Tenant is single and on a limited income. The Tenant's agent did not comment on the Landlord's comparables.

### **Analysis**

Based on the documentary evidence and testimony of all parties, I am satisfied that the rents for the two subject rental units are significantly lower than rents payable for other

similar units in the same geographical area. Therefore, I grant the Landlord's application for an additional rent increase. The Landlord seeks to increase rents significantly in order to bring the rents to a more comparable level. Therefore, pursuant to the provisions of Section **23(4)(c)** of the Regulation, I order that the rent increases be phased in over a period of time.

### **Conclusion**

I order that the rent increase be phased in over a period of 18 months. The Landlord must serve the Tenants with a notice of rent increase in the prescribed form together with a copy of this decision.

### **Regarding Unit #8**

The first notice will increase the rent to \$410.00 per month and will take effect 3 full months after the notice is served. After the first rent increase has taken effect, the Landlord may serve another notice of rent increase in the prescribed form which will take effect no earlier than 6 months after the first notice has taken effect and no earlier than 3 full months after the Landlord serves the notice. The second notice will increase the rent to \$445.00 per month. After the second increase has taken effect, the Landlord may serve another notice of rent increase in the prescribed form which will take effect no earlier than 6 months after the second notice has taken effect and no earlier than 3 full months after the Landlord serves the notice. The third notice will increase the rent to \$500.00 per month. For the sake of clarification, if the first notice is served in the month of December 2010, the first rent increase will take effect April 1, 2011. If the Landlord serves the second notice in June 2011, the second rent increase will take effect October 1, 2011. If the Landlord serves the third notice in December 2011, the third rent increase will take effect April 1, 2012.

### **Regarding Unit #74**

The first notice will increase the rent to \$775.00 per month and will take effect 3 full months after the notice is served. After the first rent increase has taken effect, the

Landlord may serve another notice of rent increase in the prescribed form which will take effect no earlier than 6 months after the first notice has taken effect and no earlier than 3 full months after the Landlord serves the notice. The second notice will increase the rent to \$885.00 per month. After the second increase has taken effect, the Landlord may serve another notice of rent increase in the prescribed form which will take effect no earlier than 6 months after the second notice has taken effect and no earlier than 3 full months after the Landlord serves the notice. The third notice will increase the rent to \$1,000.00 per month. For the sake of clarification, if the first notice is served in the month of December 2010, the first rent increase will take effect April 1, 2011. If the Landlord serves the second notice in June 2011, the second rent increase will take effect October 1, 2011. If the Landlord serves the third notice in December 2011, the third rent increase will take effect April 1, 2012.

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: December 20, 2010.

**CORRECTED December 21, 2010**

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