

DECISION

Dispute Codes: O

Introduction

This hearing dealt with an application by the landlord for an additional rent increase of 3.2 % in addition to the 2.3 % increase permitted under the regulation for a total rent increase of 5.5 %. The basis for the application for an additional rent increase was that there had been an extraordinary increase in the operating costs of the rentals imposed on the landlord. The application for the additional increase would be applicable only to four of the six units.

The landlord and three of the affected tenants appeared and gave testimony at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an additional rent increase?

If so, by what amount should the rent be increased?

Background and Evidence

The landlord submitted into evidence, financial data about the rental business, copies of communications, and a brief history of the tenancies. The tenants submitted written testimony into evidence.

The landlord testified that the rental complex was always assessed by the municipality at the tax rate applicable to a single-family dwelling and the municipal taxes had been \$3,155.18. The landlord testified that, however, the municipality suddenly re-assessed the property as a multi-unit rental and raised the municipal taxes to \$4,461.77, an increase of \$1,306.59. The landlord testified that this represents a sudden unforeseen inflation in the tax bill of over 40%. The landlord testified that the water and sewer costs also increased from \$557.70 to \$673.39, an unanticipated increase of \$115.69 or 20%.

The landlord stated that the sudden hike in his operating costs affected the continued viability of the business. The landlord testified that the application for the additional increase would be applicable only to four of the six units, as two of the suites had been re-rented for a consented to amount was higher than that paid by prior renters in those specific suites. According to the landlord, neither of these tenants were named as

respondents for that reason. However, the landlord was seeking additional rent increases for units 3, 4, 5, and 6.

One of the affected tenants submitted evidence that the additional rent increase should not be allowed for the following reasons:

- The landlord's application incorrectly identified which tenant resides in suite #5.
- A letter sent by the landlord asking whether the tenants would consent to an additional increase showed a higher amount than that being requested in the landlord's application, and the effective date this letter was issued was not a full three months in advance.
- The landlord had not increased the rent for two units that had been recently rented in April and May 2010 and no rental increase was imposed when a new agreement was signed for unit 4 in August 2010.
- A letter from the landlord dated January 10, 2008 states that the property assessment had gone up by 28% that year and this would indicate that the landlord's claim of an extraordinary assessment increase for 2010 was not as unexpected an event as is being represented by the landlord.

Another tenant took issue with the way the rental business was being operated and inequities with the way that the rules were being imposed. The tenant pointed out that his rent should be lowered due to extra noise and traffic. The tenant suggested that one of the other residents in the building should be charged more for having an extra occupant, so that the operation costs would be more equally distributed.

Analysis

Section 23(1) of the Residential Tenancy Regulation provides that a landlord may apply for an above-guideline rent increase if, “(c) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property;”

Section 23(2) states that if the landlord applies for an increase for the reason above, the landlord must make a single application to increase the rent for all rental units in the residential property by an equal percentage. However, if one or more of the existing residents in the complex has already agreed to the proposed increase, the landlord must still include those rental units in calculating the portion of the rent increase that will apply to each unit. However the tenants need not be named nor served on the Application for Additional Rent Increase.

In this instance I find that there are 6 units and 3 of the renters, including units 1, 2 and 6, who are more recent arrivals, live in units that have been subject to increases since May 2008, resulting in a higher rent than would otherwise have been permitted had the

units not changed hands. I find that the landlord only excluded units 1 and 2 from the application for an additional rent increase and had given the reason for excluding these units as the fact that they had already been subject to a significant increase in the last 3 years.

Based on the landlord's records, between May 2007 and April 2010, I find that the rent in unit #1 has been increased a total of 12.6% from \$555 to \$625, the rent in unit #2 has been increased a total of 10.6% from \$565 to \$625.

I find that the rent in unit units, #3, 4, and 5, have been increased between 6.8% and 6.9% during the same period. However, the rent for unit #6 has been increased 9.3% from \$544 to \$595.

I find that , if the additional rent increase was to be granted, the total percentage of increase over the 3 years since May 2008 would be as follows:

- #3 = 12.57% (after additional increase)
- #4 = 12.7% (after additional increase)
- #5 = 12.8%. (after additional increase)
- #6 = 15.39% (after additional increase)
- #1 = 12.6% (no further increase requested)
- #2 = 10.6% (no further increase requested)

Having reviewed the testimony and evidence of the parties, I find that the landlord has established that there has been an extraordinary increase in the operating expenses that was not anticipated. I find that the landlord is entitled to a rent increase above that provided for in the Regulations. However, I find that, like the agreed-upon higher rental rates for units 1 and 2, the latest tenant for unit 6 had also agreed to higher rent stemming from turnover of tenants during the past 3 years. Therefore, I find that the additional rent increase awarded to the landlord must only be applicable to units 3, 4 and 5 where the rent has only increased by the allowable amount each year. With respect to units 1, 2 and 6, I find that any rent increases will be restricted to the percentage allowed under the Regulation.

Conclusion

I am mindful of the effect that a substantial rent increase would have on those of the

tenants with the smallest incomes. At the same time, I am aware of the pressures on the landlord for increases in the operational cost of the building due to the tax reassessment and the risk that insufficient revenue poses to the survival of this more affordable facility in the region. By allowing a partial increase, I hope that this will assist the landlord with the tax increase and contribute to some reasonable return on investment so that the rental business can continue.

Given the above, I find that the landlord may give a three-month notice of rent increase of 4% for units 3, 4 and 5. The landlord must serve on the tenant a notice of rent increase in the prescribed form together with a copy of this decision.

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: June 2, 2011.

Residential Tenancy Branch