



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O ARI

Introduction

This hearing was scheduled in response to the landlord's application for a rent increase above the limit set by the Manufactured Home Park Tenancy Regulation (the "Regulation"). Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to an additional rent increase after a rent increase permitted by the Regulation.

Background and Evidence

There are 37 rental sites in use at the subject manufactured home park. The application concerns an additional rent increase limited to site 19A. Grounds for an additional rent increase described in the application filed on December 21, 2011 are: "rent lower than comparable units or sites." It is understood that the tenants have lived in the manufactured home park since 1995. Monthly rent is \$376.00, and documentary evidence indicates that the date of the last rent increase was March 1, 2009.

Documentary evidence includes current levels of monthly rent for 16 other "A" – designated sites, as well as 15 "B" - designated sites. A canal separates the "A" – designated sites from the "B" – designated sites.

The range in monthly rent for the 16 "A" - designated sites is from a low of \$376.00 to a high of \$436.00. The current average rent is therefore calculated to be \$406.00.

The range in monthly rent for the 15 "B" - designated sites is from a low of \$376.44 to a high of \$432.82. The current average rent is therefore calculated to be \$404.63.

The landlord has filed a separate application to be heard on March 13, 2012, for an additional rent increase concerning 32 sites. Grounds for an additional rent increase described in that application are "significant repairs or renovations."

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute around a rent increase, and undertook to achieve a resolution.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 33 of the Regulation addresses **Additional Rent Increase**, in part:

33(1) A landlord may apply under section 36(3) of the Act [*additional rent increase*] if one or more of the following apply:

- (a) after the rent increase allowed under section 32 [*annual rent increase*], the rent for the manufactured home site is significantly lower than the rent payable for other manufactured home sites that are similar to, and in the same geographic area as, the manufactured home site;

Section 36 of the Act addresses **Amount of rent increase**, and provides in part:

36(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 (3), 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.

For a manufactured home park tenancy, the allowable rent increase that takes effect in 2012 is 4.3% plus a "proportional amount." The "proportional amount" is the sum of the change in local government levies and the change in utility fees divided by the number of manufactured home sites in the manufactured home park.

In this case, a calculation of 4.3% of the current rent of \$376.00 results in an increase of \$16.16 which yields a total of \$392.16 in monthly rent. In the application, the landlord seeks an additional increase of 9% (\$35.29) yielding a total monthly rent of \$427.45.

Section 33(4) of the Regulation provides in part:

33(4) In considering an application under subsection (1), the director may

- (a) grant the application, in full or in part,
- (b) refuse the application,
- (c) order that the increase granted under subsection (1) be phased in over a period of time, or...

Residential Tenancy Policy Guideline # 37 addresses “Rent Increases,” in part:

The amount of a rent increase that may be requested under this provision is that which would bring it into line with comparable units, but not necessary with the highest rent charged for such a unit. Where there are a number of comparable units with a range of rents, a dispute resolution officer can approve an additional rent increase that brings the subject unit(s) into that range. For example, a dispute resolution officer may approve an additional rent increase that is an average of the applicable rental units considered. An application must be based on the projected rent after the allowable rent increase is added. Such an application can be made at any time before the earliest Notice of Rent Increase to which it will apply is issued.

Section 56 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that monthly rent will increase by \$41.00 from \$376.00 to \$417.00.

A rent increase cannot be introduced in advance of the required 3 months’ notice and, thereafter, the new rent remains fixed for the next 12 months. In this regard, section 35 of the Act speaks to **Timing and notice of rent increases**, and provides as follows:

35(1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:

(a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;

(b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.

(2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.

(3) A notice of a rent increase must be in the approved form.

(4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

The **approved form** is RTB – 11, which is produced by the Branch.

Conclusion

The landlord's application is hereby allowed in part.

I order that at such time as the landlord serves the tenant with a notice of rent increase, the landlord also serves a copy of this Decision, either as an attachment or as an enclosure with the notice.

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: January 30, 2012.

Residential Tenancy Branch