



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with the Landlord's Application for an Additional Rent Increase, pursuant to section 43 of the *Residential Tenancy Act* (the "Act").

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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 evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Issues(s) to be Decided

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

Background and Evidence

This tenancy began on March 1, 2009, with the parties entering into a written tenancy agreement. At the outset the monthly rent was \$1,475.00, payable on the first day of the month.

In 2010 the Landlord raised the rent to \$1,522.00, and in 2011 the rent increased to \$1,557.00. In evidence the Landlord submitted copies of the Notices of Rent Increase, issued in accordance with the Act and regulation.

In this Application, the Landlord is requesting an additional rent increase totalling 34.3%, comprised of the allowed increase of 4.3% plus 30%, to adjust the monthly rent to \$2,091.00 for the subject rental unit.

There are several grounds upon which a landlord may request an increase beyond the limits set in the Act and regulation.

The Landlord here has put forward one reason for the request for an additional rent increase. The Landlord claims that when comparing the subject rental unit with similar rental units in the same geographic area, the rent is significantly lower for the subject unit.

The parties provided evidence and testimony that the subject rental unit is a two bedroom, two bathroom condominium of about 930 square feet in size. It is on the second floor of the building (which is 9 floors tall, containing 36 units), and has an in-suite laundry. It has a large deck and solarium. Included in the rent is water and access to a gym and sauna in the building. The subject rental unit is approximately a 10 minute walk to Robson Street and a 5 minute walk to English Bay, and is located in the west end of downtown Vancouver.

Although the Agent for the Landlord did not have the exact date the building opened, the parties agreed that in 2008 the entire building was renovated. Furthermore, over the last year there have been extensive upgrades made to the lobby of the building to make it look contemporary. The Landlord provided evidence showing these upgrades cost over \$169,000.00. The subject rental unit and all other units in the building are captured under a rental covenant on the title of the property. In other words, all units in the building must be rented.

There has been one prior hearing between the parties, in July of 2012, which involved the Landlord wanting to end the tenancy to perform renovations in the rental unit. The tenancy did not end, as it was found the Landlord could perform the renovations without the rental unit being vacate, and the Notice to End Tenancy was cancelled. According to the parties, these proposed renovations have not begun yet.

For comparison purposes the Landlord entered into evidence a spreadsheet showing 10 comparable units; two of which are in the same building as the subject rental unit, two of which are nearby on the same street, and the balance of which are in relatively the same geographic area.

The Landlord has calculated that the price per square foot of the subject rental unit is \$1.67 per square foot, while the average of the comparable units is \$2.36. The average monthly rent of the comparable units is \$2,041.55. The Landlord alleges that at the average rates for square footage the subject rental unit would rent for \$2,194.00 per month in the current market, nevertheless, as described above, the Landlord is requesting an increase to \$2,091.00 per month.

The comparable units brought forward by the Landlord are all within one to two kilometres of the subject rental unit. All of the comparable rental units are located in downtown Vancouver within a short walk to English Bay, or Robson and Burrard streets.

The comparable units range in size from 800 square feet at \$1,900.00 per month to 1147 square feet at \$2,900.00 per month. I note the latter unit has two bedrooms plus a den. The five comparable units with in-suite laundry range in rent from \$1,900.00 to \$2,900.00 per month, and again the latter unit is the one with a den.

All of the comparable units, except one, have access to a gym or fitness centre. All the comparable units are close to the shopping and amenities of downtown Vancouver.

The Landlord has supplied the online advertisements for the comparable units.

In reply to the Landlord's Application, the Tenant argues that the government has seen fit to regulate rents in the province. The Tenant argues that the Landlord should not be allowed to increase the rent beyond the increase already allowed by the legislation.

The Tenant provided information regarding four different comparable units. The information for one of these comparable units is limited, but indicates a 2 bedroom unit starts at \$1,650.00 per month in this building.

The Tenant has provided one other two bedroom and two bathroom unit renting at \$1,650.00 per month with 845 square feet of area.

The other comparables provided by the Tenant are two bedroom, one bathroom units; one for \$1,725.00 per month with 1110 square feet in area, and the second one at \$1,500.00 per month for 785 square feet. I note that the comparable unit at \$1,750.00 per month is not located within the same geographic area as the subject rental unit, as it is not in the west end of Vancouver.

Little other comparable information is provided in the advertisements submitted in evidence by the Tenant.

Analysis

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

As stated by the Tenant during the hearing, in British Columbia rent increase rates are controlled by legislation. For example, in this case the Landlord is allowed under the Act and regulation to raise the rent for the rental unit by 4.3% in 2012, or to approximately \$1,623.00. I note the allowed rental increase for 2013 has been set at 3.8%.

If done in accordance with the Act and regulation, a renter may not dispute a rent increase.

However, under section 43 of the Act, the Landlord is allowed to request an additional rent increase beyond the percentage allowed by the Act and regulation, by making an Application requesting an additional rent increase such as this one. The Tenant is able to dispute a request for an additional rent increase and that occurred here.

There are several grounds upon which a landlord might request an increase, such as significant repairs are required, or that the landlord is suffering a financial loss even after the allowed statutory increase. As stated above, the Landlord here is requesting an additional rent increase on the ground that the subject rental unit has significantly lower rent than similar units in the same geographic area.

After examining and assessing the Application and supporting material provided by the Landlord, the evidence of both parties regarding comparable units, and the Tenant's submissions, **I find that the Landlord has proven on a balance of probabilities that the current rate of rent for the subject rental unit is significantly lower than the current rent payable for similar units in the same geographic area.**

In making this assessment and decision I have eliminated the Landlord's two largest comparable rental units as I found these were not similar enough to provide accurate comparisons, as these included a den as well as two bedrooms and two bathrooms. I also did not include a one bathroom unit, as this was not an appropriate comparable.

Likewise, I have eliminated three of the rental units offered in evidence by the Tenant, as two of these did not have two bathrooms, and one was not in the same geographic area.

When the monthly rents of the nine appropriate comparable rental units supplied by both parties are taken together and averaged the result is **\$1,861.11** per month in rent. This amounts to a rental increase of 19.53%, including the allowed increase of 3.8% for 2013, for the subject rental unit. The difference in rental rates between the current rent of \$1,557.00 and \$1,861.11 is \$304.11. Subject to my directions below, I find this a reasonable amount to increase the rent by.

I allow the Landlord to increase the rent to **\$1,861.11 per month, to be phased in over the next two years**. I order a two year "phase in" period as I find this is a significant increase in rent in relation to the current amount paid.

I order that the Landlord may increase the monthly rent by \$152.06 to \$1,709.06 in 2013. No sooner than twelve months after this first increase, the Landlord may increase the rent by \$152.05 to \$1,861.11.

For each phase of the increase allowed, the Landlord must provide the Tenant with a Notice of Rent Increase in the approved form, provide the required three month notice period, and must serve the Tenant with a copy of this entire Decision along with each Notice of Rent Increase.

Conclusion

I find the Landlord had sufficient evidence to prove the rent for the subject rental unit is significantly lower than comparable rental units.

I allow the Landlord an additional rent increase, in the amount of \$304.11 per month for the subject rental unit, to be phased in over two years as described above.

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 final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 11, 2012.

Residential Tenancy Branch