



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ADR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the “Act”), for an additional rent increase.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on December 13, 2014. Canada post tracking numbers were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

Issues to be Decided

Is the landlord entitled to an additional rent increase?

Background and Evidence

The landlord testified that they seek an additional rent increase that is greater than the annual allowable rent increase because the rent for the units identified are significantly lower than the rent payable for other rental units in the same geographic area. The landlord stated that they also incurred significant cost as they had to change the flat roof to a sloping roof.

The landlord testified that the rental premises consists of 6 units, which was built in the 1970's. The landlord stated that the rental unit identified are one bedrooms, with decks and are close to all amenities. The landlord stated that the rent is currently \$400.00 per month and included in the rent are the following: refrigerator, stove, parking, garbage removal and water.

The landlord testified that they have applied for rent increases for four of the six units as the two units that were not identified are paying a higher rent already.

The landlord testified that they took into consideration when applying for the additional rent increase the tenants' personal circumstances and the new rent requested is significantly lower than the comparable for the geographical area.

The landlord testified that they have submitted 43 advertisements for one-bedroom apartments in the geographical area and the lowest rent is \$575.00 and the average rent is \$761.00. The landlord stated that a lot of the buildings are approximately the same age and within one to three kilometers and are all close to all amenities

The relevant rents comparable are as follows:

Example #1	Same general area as subject property – located within 1 km
Rental unit - six plexs	1 bedroom, 1 bathroom, refrigerator, stove included. Common washer and dryer.
Rent	\$575.00

Example #2	Same general area as subject property.
Rental unit	1 bedroom, 1 bathroom, coin operated laundry
Rent	\$590.00

Example #3	Same general area as subject property.
Rental unit	1 bedroom, 1 bathroom, nicely renovated
Rent	\$700.00

The landlord testified that they had to change the roof on the building from a flat roof to a sloped roof and the total cost of the renovation was \$40,140.00.

Analysis

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

In this case, the landlord bears the burden of proving any claim for a rent increase that is greater than the prescribed amount.

The Residential Tenancy Regulations provide circumstances where a landlord may seek to increase the rent greater than the prescribed rent increase. In this case, the landlord is seeking to increase the rent on the basis the rent payable for the rental unit, after applying the prescribed rent increase, remains significantly lower than the rent payable for similar units in the same geographic area.

Residential Tenancy Policy Guideline 37 provides the policy intent of the legislation with respect to rent increases. The policy guideline provides an interpretation of the terms “similar units” and the “same geographic area”, as follows:

“Similar units” means rental units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community.

The “same geographic area” means the area located within a reasonable kilometer radius of the subject rental unit with similar physical and intrinsic characteristics. The radius size and extent in any direction will be dependent on particular attributes of the subject unit, such as proximity to a prominent landscape feature (e.g., park, shopping mall, water body) or other representative point within an area.

I accept the undisputed evidence of the landlord that the identified units are similar units of comparable size, age and sense of community. I further accept the comparable examples are within the same geographic area. Accordingly, I find the landlord has been successful with their application.

As a result, I find it not necessary to consider the landlord’s application for an additional rent increase based on significant renovations.

In this case, the landlord has requested rental units 2 and 4, rent be increased from \$400.00 to \$440.00. Increase rental units 5 and 6 rent, from \$400.00 to \$450.00. At the hearing the landlord could not remember why these two units would command a higher rent. Therefore, I find the lower rent increase will apply to all identified units.

Therefore, I hereby granted an ORDER allowing an additional rent increase raising the tenants’ rent from the amount of \$400.00 to \$440.00.

The landlord is required to serve the tenants with three months notice of rent increase, on the prescribed form, indicating the amount as listed above if they wish to proceed with implementing this Order.

Conclusion

The landlord's application for an additional rent increase is granted.

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: July 20, 2015

Residential Tenancy Branch

