



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIA BRITISH COLUMBIA, INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes AARI

Introduction

This hearing dealt with a landlord's Application for Additional Rent Increase. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

On July 29, 2016 the landlord prepared an Application for Additional Rent Increase (AARI) and filed it on August 4, 2016. The landlord seeks to increase the rent under the ground the rent for the rental unit is significantly lower than rent for comparable units in the same geographic area. This ground is found under section 23(1)(a) of the Residential Tenancy Regulations. Below, I have reproduced section 23(1)(a) with my emphasis underlined:

23 (1) A landlord may apply under section 43 (3) of the Act [*additional rent increase*] if one or more of the following apply:

(a) after the rent increase allowed under section 22 [*annual rent increase*], the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit;

The landlord completed Section E. of the AARI which is the section associated to requests made under section 23(1)(a). The landlord indicated that it was seeking a rent increase of \$160.00 to bring the current monthly rent of \$790.00 to \$950.00, which is a 20% increase. In section E. the landlord is also required to provide the "rent increase permitted" but the landlord inserted a hyphen or dash in this space. This space is to be used to provide the amount of the annual allowable rent increase that would be permitted under section 22 of the Regulations.

In 2016 the annual allowable rent increase was 2.9% of the current rent; however, I heard that the rent had already been increased from \$775.00 to \$790.00 as of June 1, 2016. Since the rent was increased as of June 1, 2016 the earliest the rent may be increased again is June 1, 2017 pursuant to section 42(1)(b) which states the earliest rent may be increased is: "if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act." At the time of filing the AARI, the annual allowable rent increase for 2017 was not known as this information is usually published every year in the latter part of August for the upcoming year.

As of the date of the hearing, the 2017 annual allowable rent increase of 3.7% was known. During the hearing, the landlord orally submitted that the 2017 annual allowable rent increase would permit an increase of \$28.00 and that the landlord was seeking a rent increase of \$175.00 for the subject rental unit. During the hearing, the landlord also pointed out that the rent for all of the comparable rental units in the rental building would be going up in 2017 for the annual allowable rent increase and that the anticipated 2017 rent increases should be taken into account in making this decision.

In making an AARI on the basis the rent for the subject unit is significantly lower than comparable units the applicant must provide the amount of the rent increase that would be permitted under the annual rent increase provision of section 22 of the Regulations. This information is needed since the applicant must demonstrate that even after the annual rent increase is applied, the rent would still be significantly lower than rent for similar units. Since the landlord did not provide the required information, I find the landlord's application is not complete. I find it likely that the AARI was devoid of this information because the rent had already been increased in 2016 and the annual rent increase for 2017 was not known at the time of filing. As such, I am of the view that the landlord's application was very premature when it was made.

Although the 2017 annual allowable rent increase was published in the later part of August 2016, the landlord did not attempt to amend the AARI or the landlord's evidence to reflect the updated information prior to the hearing. Since the 2017 annual rent increase percentage was published in August 2017 I am of the view the landlord had sufficient time to amend or update the figures it intended to rely upon during the hearing. Accordingly, I find that to wait to amend the amounts during the hearing to be unjustified and unfair to the tenant and I do not permit the landlord to amend the amounts by way of oral submissions during the hearing.

In light of the above, I decline to further consider the landlord's AARI on the basis it was incomplete and premature. However, I grant the landlord leave to reapply.

Should the landlord consider re-applying for an AARI, I strongly encourage the landlord to refer to Residential Tenancy Policy Guideline 37: *Rent Increases*. I noted that the landlord's listing of other units in the building did not include particulars such as number of bedrooms, number of bathrooms, and any other description of features or amenities that would permit the respondent or an Arbitrator to conclude the units are comparable to the rental unit.

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 06, 2016

Residential Tenancy Branch