



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Additional rent increase

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an additional rent increase above the permitted amount for 2017.

The tenants and landlord attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions under oath. The landlord and tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to increase the rent above the permitted amount for 2017?

Background and Evidence

The parties agreed that this tenancy started on June 01, 2015. Rent started at \$1,200.00 per month and increased to \$1,234.80 a month from December 01, 2016. Rent is due on the 1st of each month in advance.

The landlord has requested an additional rent increase of 219.52 plus the allowable rent increase for 2017 of \$45.68 to a total increase of \$265.20. This will take the rent to

\$1,500.00 per month. The landlord requests this additional rent increase due to significant repairs and renovations to the residential property, which is one half of a duplex, and due to the landlord's increased costs in the operating expenses of the residential property.

The landlord testified that she has incurred significant costs of \$43,000.00 in renovating the unit in 2016. The landlord testified that she purchased the duplex in 1994 and it was quite run down at that time. The landlord put on a new roof in 1994. The roof was replaced again 13 years ago. Other general maintenance issues have also been completed by the landlord such as attic insulation, landscaping, driveways, evestroves and downpipes and fencing in the back yard. In 2016 the landlord put in a new furnace and hotwater tank, a new bathroom, new drywall in the basement, new windows, new kitchen including cabinets, counter tops, sink, faucets plumbing and electrical work, a new sundeck, new linoleum in the kitchen, a new sliding door and front door, a drop ceiling, new lights, new soffits and facers and the basement has been painted.

The landlord testified that her operating costs have also increased; the tenants pay for their own gas and electric but the rent included water services. The water charges went up \$5.00 per month from 2015 to 2016. The landlord testified that her fire insurance costs went up by \$25.00 per month from 2015 to 2016. The landlord testified that her property taxes went up by \$100.00 per month from 2015 to 2016.

Because of these extraordinary increased costs the landlord seeks a rent increase above the allowable amount for 2017.

The tenants disputed the landlord's claims. The tenants testified that their rent was last increased in December, 2016 and should not be increased again until December 2017 and then only by the allowable amount. The tenants testified that other than the kitchen work all other work done in the unit should be considered normal operating costs for the landlord as it was much needed maintenance work to the unit. The old kitchen was useable and if the landlord decided to replace it to enhance the value of her property then the tenants should not be expected to pay for this renovation or other maintenance work.

The tenants testified that the landlord could have spread the maintenance costs for several years because regular maintenance was not done on the property. The deck was rotten and the work has still not been completed as the landlord gave the tenants a month free rent in 2016 to replace the deck but would not provide enough materials to complete the job. The tenant asked the landlord to provide more materials because the railings on the deck were not up to code and the landlord said they were good enough. The bathroom was old dirty and moldy and was beyond cleaning and had to be replaced. The tenants testified that in 2015 when they moved into the unit, the landlord said she was going to do the basement as it was in a poor condition.

The landlord testified that they agreed that the male tenant would do the deck and the tenants did get a free month's rent for his labour but the tenant has not finished the work. The landlord testified that she did the maintenance in the unit to protect the tenants and enhance their unit making it a nicer place for them to live. Things like the windows and doors were replaced to save the tenants money on the heating costs. The neighbor who also had new windows has saved \$90.00 a month on utilities.

Analysis

S. 43 of the *Act* provided for the following

(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

In consideration of the landlord's request for an additional rent increase of \$265.20 per month; I have considered #37 of the Residential Tenancy Policy Guidelines; which states, in part, that In conventional tenancies, a landlord's completion of a repair or renovation is a circumstance under which he or she can apply for an additional rent increase if:

- (1) The repair or renovation is significant;
- (2) The repair or renovation could not have been foreseen under reasonable circumstances; and
- (3) The repair or renovation will not reoccur within a time period that is reasonable for the repair or renovation.

The landlord may also apply if the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property.

In considering this Application for an Additional Rent Increase, I have considered whether or not the repairs and renovations are significant and whether the expected benefit of the repair or renovation can reasonably be expected to extend for at least one year, and the repair or renovation is notable or conspicuous in effect or scope, or the expenditure incurred on the repair or renovation is of a noticeably or measurably large amount. The landlord must show that the repair or renovation could not have been foreseen under reasonable circumstances and will not reoccur within a time period that is reasonable for the repair or renovation. An example of work that could not have been foreseen under reasonable circumstances is repairs resulting from a ruptured water pipe or sewer backup even though adequate maintenance had been performed. Another example is capital work undertaken by a municipality, local board or public utility for which a landlord is obligated to pay (e.g., sewer system upgrade, water main installation), unless the work is undertaken because of the landlord's failure to do the work. An example of work that could have been foreseen under reasonable circumstances, and for which a rent increase would not be allowed, is a new roof.

I have considered the evidence before me regarding this section of the landlord's application and find that the work completed by the landlord could have been foreseen. The property was purchased in 1994 and by the landlord's own admission was run down. The landlord could therefore have reasonably foreseen that repairs, renovations and replacement of certain items would be required further into the life of the building. Even though the landlord had a considerable amount of work completed in one year the landlord

could have spread this expenditure over a number of years and the work completed such as the windows, doors, furnace, hotwater tank, kitchen and bathroom will have increased the value of the landlord's asset and enhanced her property.

Consequently I do not find that these repairs and renovations could not have been foreseen by the landlord and although the tenants will benefit from the repairs and renovations beyond a year of their reasonable life span as this will also benefit the landlord it is my decision this does not warrant an additional rent increase above the allowable amount for 2017.

With regard to the second part of the landlord's application concerning incurring a financial loss from an extraordinary increase in the operating expenses of the residential property. the guidelines also states, in part, that Financial loss means the amount by which the total costs that have been experienced by a landlord in respect of a residential property for an annual accounting period exceed the revenue for the same period. Proof of financial loss normally consists of an audited or certified financial statement that (i) summarizes the financial condition of the landlord, (ii) includes a balance sheet, (iii) includes a statement of profit and loss, and (iv) is signed by an individual authorized to sign audited financial statements in the Province of British Columbia, certified by a professional accountant, or accompanied by a sworn affidavit of the landlord that the financial statements are true. The landlord has not provided these documents in her evidence package but has provided some information on her application regarding the increase in expenditure of her property taxes, her fire insurance and her water charges. This information shows the amounts paid in 2016 compared 2015.

Part of this section of the landlord's claim refers to the word "Extraordinary". This means going beyond what is usual or regular, or exceptional to a marked extent. I do not find that an increase of \$100.00 from 2015 for property taxes to be an extraordinary increase or one that would undue cause financial hardship upon the landlord. Property taxes are often increased annually and the landlord could have reasonable foreseen that an increase would be made each year. I also do not

consider an increase of \$5.00 a month for water costs or \$25.00 a month for fire insurance to be an extraordinary increase.

Consequently, I do not consider that this expenditure should be borne by the increase in rent to the tenants and the landlord's application for an additional rent increase is dismissed.

The landlord may therefore increase the rent by the allowable amount for 2017 of \$45.68 in accordance with s. 42 of the *Residential Tenancy Act*.

Conclusion

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

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: May 26, 2017

Residential Tenancy Branch