



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

R I (additional rent increase)

Introduction

This hearing dealt with an application by the landlord for a rent increase above the limit set by *Regulation of the Residential Tenancy Act*. The landlord applies on the basis prescribed by *Regulation 23(1)(a)*:

after an allowed 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.

Solely the landlord's lawyer (the landlord) attended the hearing. The landlord stated the tenant was served with notice of this hearing, and I have received evidence from the tenant to the landlord's application, and in which they state they would not be joining the teleconference hearing due to employment commitments. The landlord stated the tenant had been provided all of the evidence provided to this proceeding, and they acknowledged receiving the submissions of the tenant. The hearing proceeded on the merits of the landlord's application. The hearing was apprised the tenant's submissions would be considered and their submissions were discussed in the hearing. Prior to concluding the hearing the landlord's lawyer acknowledged presenting all of the relevant evidence they wished to present. I have reviewed all relevant evidence in this matter.

Issue(s) to be Decided

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

Background and Evidence

The current payable monthly rent under the tenancy agreement is \$1000.00. And, the rent payable after applying a permitted increase for the current year of 3.7% is \$1037.00.

The landlord seeks an additional rent increase of \$263.00 representing an increase of 30% over the payable rent.

The subject property is a condominium apartment unit on the first level of the residential property located in the City of Richmond in the Metro Vancouver geography. The residential property is close to the typical community and transportation amenities of an urban setting. The landlord and tenant provided the residential property contains 48 units and is 37 years old.

It is undisputed the subject rental unit is 604 square feet, with 1 bedroom, 1 bathroom, and a reportedly big in-suite storage room. The tenancy agreement notes the rent includes window coverings. Household utilities and parking are not included. According to the evidence the residential property does not contain common amenities as a benefit of the tenancy.

The tenancy started in 2013 at a payable rent of \$1000.00 and there is no reported history of rent increases. The landlord provided that the rent for the unit is low in comparison to other units in the same residential property and to units advertised for rent online. The tenant provided that a similar unit with similar characteristics and of similar size in the same property is currently listed for \$875.00 per month inclusive of parking.

The landlord submitted the following evidence in support of this matter.

- Third party information from another landlord, GP, of the same residential property respecting 6 units of which they are owner, of similar square footage, the same 1 bedroom configuration currently renting for \$985.00, \$995.00, \$1030.00, \$1170.00, \$1200.00 and \$1300.00, respectively. The landlord's evidence highlighted that the 2 highest payable rents were the result of recent new tenancy agreements.
- "10 online listing banners" for 1 bedroom units solely with their square footage and asking rents purportedly in the same geographical area as the subject unit. It must be noted that some of these listings boast considerably larger units and 2 are on the 12th floor.
- "4 other online listings" with information claimed as 'comparables' advertised for rent, each 1 bedroom/1 bathroom units claimed similar to the subject unit in size and in the same geographic area with varying prospective or asking rents of \$1100.00, \$1300.00, \$1650.00, and \$1750.00. The features of these units vary, but include a brand new unit with modern features and enhanced common amenities of a swimming pool, gym, sauna, and air conditioning. Or, in addition, in suite laundry, or den, or that rent includes utilities. Of note is that the \$1100.00

unit is a newly renovated basement suite with back yard versus an apartment, and also includes heat and electricity.

The landlord argued they did not increase the rent as permitted since the outset of the tenancy and that current rental market conditions support higher rents. The landlord submits that costs associated with the residential property have increased like those of all landlords but did not provide evidence in support and it must be noted they did not make application on that basis. The landlord provided they renovated the unit before the current tenancy in 2013. The tenant submitted that no upgrades have been done since the outset of the tenancy and that some maintenance issues took “months” to repair such as a defective bathtub faucet and a drainage issue.

In response to the landlord’s evidence the tenant also provided a narrative describing what they referenced as the dis-similarities with the landlord’s comparables.

The parties mutual evidence is also that some of the units in the same residential property (3) portrayed by the third party contributor, GP, have payable rents which are less than the subject unit’s payable rent after applying the permitted increase for the current year, despite 2 of them having also been renovated in recent years.

Analysis

The full text of the Act, and other resources indicated in this Decision may be accessed via the RTB website at: www.gov.bc.ca/landlordtenant.

Part 4 of Residential Tenancy Regulation, Section 23 – Additional rent increase, as relevant to this matter, states as follows.

Additional rent increase

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 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 necessarily with the highest rent currently charged for a comparable unit.

I find the landlord has the burden to provide evidence that the amount of rent paid,

or payable rent, in the subject tenancy is *significantly lower* than the current payable rent required under an agreement for other rental units which are similar to and in the same geographic area as the subject rental unit.

Residential Tenancy Regulation Section 23 states that an Arbitrator will consider those relevant contents of Subsection (3). Of relevance to this matter are the following,

- 3(b) there has not been rent increases as permitted since 2013.
- 3(c) there has not been changes in services or facilities in the past 12 months.
- 3(d) There is no evidence of relevant operating expenses or considerable capital expenditures in the 3 years preceding the date of the landlord's application.
- 3(f) The tenant's written submission arguing the landlord's application should not be granted as their rent is typically in line with other units in the same residential property with similar characteristics and that the balance of comparables provided are not similar or sufficiently similar to the subject rental unit.

I accept the evidence of both parties that the rental units portrayed in this proceeding all appear to be within the same geographic area of central Richmond.

I find that the landlord's evidence of "10 online listing banners" is of insufficient information lacking evidentiary weight to make it relevant in this matter.

I find the landlord's "4 other online listings" to be insufficiently similar to make them valid comparables in this matter.

However, I find the landlord has provided some evidence from landlord GP which is of relevance. This evidence is not of prospective rents as purported by advertisements, so is particularly relevant in respect to actual payable rents under a contractual obligation. The evidence is that 3 other units in the same residential property rent for less than the subject unit following the permitted rent increase, and GP's recent success at renting out 2 similar units in the same residential property at higher rents reflect the market of the day. I find the remaining unit at \$1170.00 per month is, on balance of probabilities, the result of, what GP describes as, routine annually applied permitted increases. I find the difference of rent in that one unit and the subject unit is not such that it can be termed significant. But moreover in this matter, I find the landlord has not provided sufficient evidence to establish the landlord's burden to prove that amongst similar rental units within the same relevant geographical area the subject unit's payable rent is markedly or significantly low at \$1037.00. I find the landlord's evidence contained a

limited number of similar units and insufficient useful or relevant evidence so as to establish that higher rents within the requisite geography are prevalent, and therefore an increase of the rent above what is permitted is warranted.

I find that the landlord's application has failed to demonstrate that an additional rent increase should be issued.

As a result of all the above, and pursuant to Residential Tenancy Regulation Section 23(4), I must refuse the landlord's application. The landlord is at liberty to issue a rent increases as permitted by Regulation.

Conclusion

The landlords' application for an additional rent increase in respect to the subject unit effectively is dismissed. This Decision is final and binding.

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: June 12, 2017

Residential Tenancy Branch