



Dispute Resolution Services

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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 ARI

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order regarding the landlord's request for an additional rent increase pursuant to section 43 and 69.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlord served to the tenant the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on April 4, 2017. Both parties confirmed that the tenant served the landlord with their submitted documentary evidence via express post on June 16, 2017. Neither party raised any issues with service. I accept the undisputed affirmed testimony of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

After a rent increase permitted by the Residential Tenancy Act Regulations, is the rent for the disputed rental unit significantly lower than rent payable for other rental units similar to and in the same geographic area as the rental unit? And/or for significant repairs or renovations that were not anticipated?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that this tenancy began on September 1, 2005 on a fixed term tenancy ending on September 1, 2007 and then thereafter on a month-to-month basis. Both parties confirmed that the current monthly rent is \$819.00 as a result of a notice of rent increase. The monthly rent is payable on the 1st day of each month.

The landlord seeks an additional rent increase of \$156.00 (23.42%) to \$975.00 as the landlord claims that the rent for the rental unit is significantly lower than rent payable for other rental units or sites similar to and in the same geographic area as the rental unit. As well the landlord seeks the additional rental increase due to significant repairs or renovations to the residential property in which the rental unit is located that could not have been foreseen under reasonable circumstances.

The landlord provided undisputed affirmed testimony that at the time of the application filed that the current rent was \$790.00, but that at the time of the hearing the current rent is \$819.00. The landlord provided undisputed affirmed evidence that the rental unit is a ground floor unit with 838 square feet. It features 2 bedrooms, 2 bathrooms, living room, patio, dish washer and in-suite laundry. The building has gated parking stalls, an elevator and an onsite resident caretaker. The owner purchased the building in May 2016 and has made significant improvements such as:

- Repairs to Main sewer piping, \$42,811.00
- Interior common area improvements totalling, \$121,310.00
 - new carpets, \$37,922.00
 - new hallway light fixtures, \$9,714.00
 - exterior lighting replacement/upgrade, \$3,627.00
 - underground parking lighting replaced and replacement of carbon monoxide detection system, \$27,879.00
 - painting of common hallways/stairwells, \$36,438.00
 - lobby furniture, plants, etc, \$1,760.00
 - re-keying building entrance doors/replacement of common are locks, \$3,971.00

The landlord has provided 5 pages of spreadsheets detailing comparable ground floor units with unit type, square footage, rent, dollar per square foot, 2017 allowable rent increase (3.7%) and adjusted dollar per square foot.

The landlord stated that the tenant was given a significantly lowered rent by the previous owner due to a water ingress issue in the unit. The problem was resolved approximately 3-4 years ago and then subsequently regular rent increases were applied. The landlord claims that because of this, rent remains significantly lower than comparable units in the building on the same floor. The landlord provided affirmed testimony that if corrected to current market level rents, the tenant's monthly rent should be \$1,170.00 and that the landlord's rent increase request would make it \$200.00 below market levels at \$975.00.

The tenant disputes the landlord's application stating that the spreadsheets provided fail to provide a consistent comparison based upon square footage of the rental units. The tenant also argues that some units currently have a lower rental rate.

The landlord clarified that the units with lower rental rates are currently waiting for their anniversary dates to allow for the allowed 2017 rental increase which would bring them in line.

Analysis

Section 23 of the Residential Tenancy Regulations state, I must consider a number of factors, if relevant, inclusive of relevant submission from the affected tenants. In this matter, the affected tenant comprised of one tenant in the rental premises. The landlord has provided a detailed spreadsheet showing the comparable rental units in the same rental premises.

I have based my decision on a reasonable interpretation of the landlord's supporting material and the relevant submissions of both parties. I have given consideration, in part, to similarity in square footage as a measure of similarity in size, but I have also considered similarity as to location, age and features as the landlord relies solely on comparable units in the same rental premises. The decision is not based solely on the parameters of square footage. I have looked to Residential Tenancy Branch Policy Guideline #37- as a guideline and section 75 of the Residential Tenancy Act as it states in part, that I may admit, and consider evidence that which is:

75(a) necessary and appropriate, and

75(b) relevant to the dispute resolution proceeding.

As a result, I accept the submissions of the landlord with respect to their detailed listing of comparable units within the same rental premises as comparable(s). The tenant's

dispute that the comparable list was not consistent based upon square footage as other units were of less rent notwithstanding were explained by the landlord. Those comparable units of less rent were awaiting their anniversary dates for the allowable rent increase(s) to bring them in line with other units.

Both parties confirmed that the tenant's rent was permanently lowered one-time by the previous owner due to water ingress in the unit approximately 3-4 years ago, but was never returned to the market level rent thereafter. Both parties also agreed that regular rent increases were applied subsequently. Copies of each rental increase were provided by the landlord.

A review of the detailed comparable rental units show that even after the 2017 allowed rental increase, the tenant's rental level remains lower than other similar units in the rental premises and that even an increase to the requested amount would still be lower by approximately \$200.00 than other comparable unit(s).

I find that the landlord has provided sufficient evidence to satisfy me that the tenant's rent remains lower than comparable units within the same rental premises as shown by the landlord's detailed listings. As such, I order that the landlord may increase the rent from the current \$819.00 to \$975.00 in phased increase(s).

I order that the landlord serve to the tenant a notice of rent increase with this decision which details the approved phased rent increase to \$975.00.

Current Rent	Date of Increase	To be increased	New Rent
\$819.00	September 1, 2017	\$52.00	\$871.00
\$871.00	November 1, 2018	\$52.00	\$923.00
\$923.00	January 1, 2018 2019	\$52.00	\$975.00

On the landlord's claim to increase the rent based upon significant repairs or renovations, I find the landlord has failed. The landlord has provided detailed information that the increase was based upon:

Interior common area improvements totalling, \$121,310.00 for:

New Carpets, \$37,922
 New Hallway light fixtures, \$9,714
 Exterior Lighting replacement/upgrade, \$3,627

Underground parking lighting replacement and carbon monoxide detection system repairs, \$27,879

Painting of common hallways and stairwells, \$36,438

Re-Keying of building entry and common doors (61 sets), \$3,971

I find that these do not constitute unanticipated costs and that the landlord has failed to provide any evidence that such an expense would be increased equally amongst all tenants as opposed to applying for this increase for one tenant. This portion of the landlord's request for a rent increase due to significant repairs or renovations is dismissed.

Conclusion

The landlord's application for a rent increase to \$975.00 is granted as detailed above.

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 17, 2017

Residential Tenancy Branch

DECISION/ORDER AMENDED PURSUANT TO SECTION 78(1)(A)
OF THE RESIDENTIAL TENANCY ACT ON August 03, 2017
AT THE PLACES INDICATED.