



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NUTHATCH CAPITAL INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ADRI

Introduction

This hearing dealt with an Application for Additional Rent Increase, filed under the Manufactured Home Park Tenancy Act.

The landlord's agents attended the hearing. As the tenants in sites #0, #3, #4, #5, #6, #9, #13, #14, #15, #16, 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's agents testified that the Application for Additional Rent Increase and Notice of Hearing were sent to each of the tenants in the above noted sites, except site #6 were by registered mail sent on July 26, 2017.

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.

The landlord's agents testified the tenant in site #6 was served in person on July 26, 2017.

I find that the tenant has been duly served in accordance with the Act.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Issue to be Decided

Is the landlord entitled to an addition rent increase?

Background and Evidence

The landlords' agent testified that they seek an additional rent increase increasing the rent from \$230.00 per month to \$300.00 per month, as they believe the rent is lower than other comparable parks.

Subject park	
Geographic location	Same general area as comparison
Infrastructure	Good road in park
Sites	Small park – 17 lots
Site size	Average 541 square meters
Amenities	metered water and the tenants all get a standard amount free and are billed for excessive usage, garbage pickup
Rents	\$230.00 (\$238.51 with rent increase permitted)

The landlord testified that there are two other manufactured home parks in the geographical area and both parks site rent is significantly higher.

Park 1 - Aspen	
Geographic location	Same general area as subject property
Infrastructure	Poor road in park
Sites	Large park - 85 lots and 18 RV sites,
Site size	Average 354 square meters
Amenities	
Rents	\$262.00

Park 2 – Pinewood	
Geographic location	Same general area as subject property
Infrastructure	Poor road in park.
Sites	Medium park - 40 plus lots.
Site size	Average 520 square meters
Amenities	Municipal water and sewer.
Rents	\$322.00 per month

The tenants argued that they measured their sites and they are significantly smaller than the landlord's measurement.

The tenants submit that park 1 offers different rent for lot sizes between \$235.00 and \$262.00. The tenants submit that park 2 rent is less than \$322.00.

The landlord's agents responded that the tenants have likely measured their site size incorrectly, as there are no pins for them to identify the actual site.

Analysis

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

While both parties have provided a large amount of verbal testimony, I found it not necessary record all submission or considered those submission that I have determined not relevant to my below findings.

Section 33(1) of the Manufactured Home Park Tenancy Regulation states a landlord may apply under section 36 of the *Act* if after the rent increase allowed under section 32 of the Regulation, the rent for the manufactured home site is significantly lower than the rent payable for other manufactured home sites that are similar to, and in the same geographic area as, the manufactured home site.

Residential Tenancy Policy Guideline 37 states that additional rent increases under the section of "Significantly lower rent" will be granted only in **exceptional circumstances** and that it is not sufficient for a landlord to claim a rental unit(s) has a significantly lower rent that results from the landlord's recent success at renting out similar units at a higher rate

I accept that the rental sites are within the same geographic area. However, I am not satisfied that the landlord has met the burden of proof to prove that the subject sites are significantly lower rent from other sites.

The evidence of the landlord's agents was that current rent for park 1 is \$262.00. The evidence of the tenants' was that the rent range varies on site size for park 1 and rent is between \$235.00 and \$262.00.

The evidence of the landlord's agents was that current rent for park 2 is \$322.00. The evidence of the tenants' was that the rent is lower than the amount the landlord has indicated.

In this case, the landlord has not provided any supporting evidence of the actual amount of rent for park 1 or park 2, such as letters from the other park owners, or advertisements for rent. Therefore, I cannot determine the actual rent for these

manufactured home parks to compare with the subject property due to insufficient evidence

Further, both parties have provided a different calculation of site size. I find without further evidence from the landlord, such as detailed maps of these sites; I am unable to determine what the actual sizes of the subject property sites are. Furthermore, there was no documentary evidence to support the comparable site sizes, such as maps or other documents. Therefore, I cannot determine if the actual site sizes are similar, due to insufficient evidence.

Further, the landlord has not provided any photographs of the subject park or of the comparable parks for my review or consideration. While the landlord has provided aerial maps, these maps are only helpful in determining the general area of the parks and community.

Based on the above, I find the landlord has failed to provide sufficient evidence to support their Application for Additional Rent Increase.

Conclusion

Based on the above, I dismiss the landlord's Application for Additional rent Increase due to insufficient evidence. The landlord is at liberty to make a new application with proper supporting documents.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: September 29, 2017

Residential Tenancy Branch