



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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### Introduction

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

- Application for an additional rent increase pursuant to section 43 of the Act.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of any evidence on file.

### Issues

Should the landlord's application for an additional rent increase be allowed?

### Background & Evidence

This tenancy began on August 1, 2014 with a monthly rent of \$1325.00 at the beginning of the tenancy. The tenancy was for an original one year fixed term and continued on a month-to month basis thereafter. On November 1, 2015 the rent was increased to \$1358.00 and effective November 1, 2016 increased to \$1390.00. The rental unit is a 610 sqft one bedroom apartment in the Lower Lonsdale area of North Vancouver.

The landlord is requesting an additional rent increase totalling 36.7%, comprised of the allowed increase of 3.7% plus 33%, to adjust the monthly rent from \$1390.00 to \$1,900.00 for the subject rental unit. As per the application, the reason for the request for an additional rent increase is the landlord claims that when comparing the subject rental unit with similar rental units in the same geographic area, the rent is significantly lower for the subject unit.

For comparison purposes the Landlord entered into evidence a spreadsheet showing three comparable units and advertisements of these units on Craigslist. Two of the comparables provided by the landlord are in the same building as the subject rental unit, and the third is located just a block away. The spreadsheet includes details of the comparable rent amounts, square footage, location, brief description of amenities, floor level, direction unit is facing and the date the rent was established.

The tenant argues that the two units in the same building presented by the landlord are both bigger units with dens so they are not comparable. The tenant argues the 3<sup>rd</sup> unit presented by the landlord is 120 sqft bigger and on a 4<sup>th</sup> floor so it is also not comparable. The tenant also submitted advertisements of three units in the area which he argues are more comparable.

### Analysis

Pursuant to section 43 of the Act, a landlord may impose a rent increase only up to the amount calculated in accordance with the Regulation, ordered by the Director or agreed to by the tenant in writing. The allowable percentage rent increase for the calendar year 2017 is 3.7%. However, under this section, the landlord may make an application for approval of a rent increase in an amount that is greater than the basic Annual Rent Increase.

*Residential Tenancy Policy Guideline #37 “Rent Increases”* provides the following guidance:

*Additional rent increases under this section will be granted only in exceptional circumstances. 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 in the residential property at a higher rate. However, if a landlord has kept the rent low in an individual one-bedroom apartment for a long term renter (i.e., over several years), an Additional Rent Increase could be used to bring the rent into line with other, similar one-bedroom apartments in the building. To determine whether the circumstances are exceptional, the arbitrator will consider relevant circumstances of the tenancy, including the duration of the tenancy, the frequency and amount of rent increases given during the tenancy, and the length of time over which the significantly lower rent or rents was paid.*

*The landlord has the burden and is responsible for proving that the rent for the rental unit is significantly lower than the current rent payable for similar units in the same geographic area. An additional rent increase under this provision can apply to a single unit, or many units in a building. If a landlord wishes to compare all the units in a building to rental units in other buildings in the geographic area, he or she will need to provide evidence not only of rents in the other buildings,*

*but also evidence showing that the state of the rental units and amenities provided for in the tenancy agreements are comparable.*

The tenancy in question began only a little over 3 years ago. The rent has also been increased by the allowable Annual Rent Increase in each subsequent year of the tenancy. I find this is not an exceptional circumstance such as a long term tenancy in which the landlord has not increased the rent over several years. Further, the spreadsheet and comparable advertisements submitted by the landlord were lacking much detail with respect to the current state of the rental units and amenities provided.

The landlord's application is therefore dismissed.

The Landlord may increase the rent by the annual allowable percentage of 3.7% to \$1441.43 after providing the tenant with a Notice of Rent Increase in the approved form and providing the required three month notice period.

### Conclusion

The landlord's application 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: October 24, 2017

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Residential Tenancy Branch