



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

AARI

### 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 the tenant with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail. 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.

After lengthy discussions the hearing was adjourned due to a lack of time. On January 23, 2018 the hearing was reconvened with both parties present and prepared to reconvene the hearing. The tenant's agent/son, D. J. attended the hearing on behalf of his mother due to a family emergency out of town. The landlord did not object to the tenant's agent/son appearing on the tenants' behalf. As such, the hearing proceeded.

### Issue(s) to be Decided

Is the landlord entitled to an order for an additional rent increase?

### 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 applicants' claims and my findings are set out below.

Both parties confirmed that this tenancy began on January 1, 2011 on a month-to-month basis based upon a verbal agreement. Both parties confirmed that the current monthly rent is \$825.00 payable on the 1<sup>st</sup> day of each month. No security deposit was paid. No rent increases have occurred during this tenancy.

Pursuant to the Regulations, the allowable amount of rent increase that takes effect in 2017 is 3.7%. In this case, the allowable rent increase would be \$30.52 ( $\$825.00 \times 3.7\%$ ), which would bring the subject monthly rent to \$855.52 ( $\$825.00 + \$30.52$ ).

In this application the landlord seeks a rent increase in the total amount of \$324.22, which would bring the subject monthly rent to \$1,149.22 ( $\$825.00 + \$324.22$ ) for a 39.3% increase.

Grounds for an additional rent increase identified in the application are as follows:

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

Both parties have identified that this tenancy has lasted approximately 6 years for a 1 bedroom, 623 square foot rental unit. The rental premises provides for a pool, shared laundry and storage facilities. The last renovation to the rental unit was approximately 10 years ago.

The landlord has provided the following 7 rental units for comparison of showing that rent is significantly lower than rent for other rental units that are similar to an in the same geographic area within a 1.6 kilometer radius.

The landlord has provided a realtor sales listing for the unit which sold at \$214,000.00 for the 1 bedroom, 623 square foot unit. Both parties were informed that a sales listing was not applicable and would not be considered as a comparable rental unit.

The landlord has provided a realtor sales listing in the same building which sold at \$210,000.00 for a 1 bedroom, 623 square foot unit. Both parties were informed that a sales listing was not applicable and would not be considered as a comparable rental unit.

The landlord has provided a rental listing for a 1 bedroom unit for \$1,100.00 per month with a fully renovated 1 bedroom, 1 bathroom, galley style kitchen with new fridge, stove, dishwasher and microwave. Heat and Hot water included, available July 1, 2017. The tenant's agent argued that this is a fully renovated rental unit and that the tenant's rental unit in comparison is at least 10 years from last being renovated.

The landlord has provided a rental unit for a 1 bedroom apartment for \$1,100.00/month which includes heat, hot water and a locker. The tenant's agent argued that the information provided by the landlords is very vague and does not provide sufficient information to compare the units.

The landlord has provided a rental unit for a 1 bedroom, 560 square foot unit for \$1,150.00/month which includes a balcony, storage locker facing east on the 3<sup>rd</sup> floor, heat and water. The tenant's agent argued that this unit is a much older unit without sufficient details to compare the rental units.

The landlord has provided a rental unit for a 1 bedroom, 750 square foot unit for \$1,100.00/month which includes heat and hot water, 1 secured underground parking space. The tenant's agent argued that this comparison offered by the landlords has failed to provide sufficient details on the condition of the rental unit to make a proper comparison other than the square footage.

The landlord has provided a rental unit for a 1 bedroom, newly renovated for \$1,200.00/month. The description features the newly renovated building with renovated 1 bedroom suites. It includes on-site laundry. The tenant's agent argued that this comparison provides for a fully renovated building with insufficient information on amenities and no details of the rental unit itself.

### Analysis

Pursuant to section 43 (3) of the Act, a landlord may make an application for a rent increase for an amount that is greater than an amount calculated under the regulations.

In considering if the rent is significantly lower than rent for other rental units that are similar to and in the same geographic area, I find that rent has not been increased since the tenancy began in 2011.

The landlords has the burden and is responsible for proving that the rent for the rental unit is significantly lower than current rent payable for similar units in the same geographic area. The landlords 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 the tenancy agreements are comparable.

The rent for the rental unit may be considered "significantly lower" when the rent for the rental unit is considerably below the current rent payable for similar units in the same geographic area.

"Similar units" means rental units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community.

The "same geographic area" means the area located within a reasonable kilometer radius of the subject rental unit with similar physical and intrinsic characteristics. The radius size and extend in any direction will be dependent on particular attributes of the subject unit, such as proximity to prominent landscape feature (e.g. park, shopping mall, water body) or other representative point within an area.

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 has a significantly lower rent that result from the landlord's success at renting out a similar unit in the residential property at a higher rate. The landlord must clearly set out all the sources from which the rent information was gathered. In comparing rents, the landlord must include the allowable rent increase and any additional separate charges for services or facilities (e.g. parking, laundry) that are included in the rent of the comparable units in other properties.

It is clear based upon the applicable comparisons provided by the landlords that rent for a 1 bedroom are significantly higher than that of the tenants'. However, the landlords rely primarily on monthly rental listing amounts within the same area, but have failed to provide sufficient information on the details of each rental comparison and age of the building and of each unit. I find that the landlords have failed to provide sufficient evidence for a true comparison of the rental unit with those listed in the same geographic area. As such, I find that the landlords have failed to establish a claim for an additional rent increase applied for of a 39.3% increase.

#### Conclusion

The landlords' application for an additional rent increase is dismissed without leave to reapply.

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: January 23, 2018

---

Residential Tenancy Branch