



# Dispute Resolution Services

Page: 1

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. No issues were raised with respect to the service of the landlord's application or any evidence on file.

### Issues

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

### Background & Evidence

The rental property is an apartment building consisting of 17 rental units. The landlord applied for a rent increase pertaining to only 9 of the 17 units. The landlord is also seeking to increase the rent by a different percentage for each of the 9 units subject to this application.

As per the application, the reason for the request for an additional rent increase is the landlord claims that when comparing the subject rental units with similar rental units in the same geographic area, the rent is significantly lower for the subject units.

The landlord is also applying for an additional rent increase on the grounds that the landlord has completed significant repairs or renovations to the residential property in which the rental units are located.

The landlord submits receipts for capital expenditures incurred at the residential property. The landlord also testified the current market rents of similar units are much

higher. The landlord submits they are not seeking market rents but rather basing the increase requested on the amount of money spent on maintaining the rental building.

### 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 2018 is 4.0%. 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 landlord provided no supporting documents as evidence of the comparable market rents for similar units. The landlord also provided no evidence showing the state of the rental units and amenities provided for in the tenancy agreements of the rental units applied for or for the comparable units.

The landlord's application for an additional rent increase on the grounds of significantly lower rent is dismissed without leave to reapply.

Pursuant to section 23(2) of the *Residential Tenancy Regulation* (the “Regulation”), if the landlord applies for an additional rent increase on the grounds of significant repairs or renovations to the residential property, the landlord must make a single application to increase the rent for all rental units in the residential property by an equal percentage.

The landlord’s application seeks to increase the rent by different percentages for each unit applied for and more importantly does not include all rental units in the residential property.

The landlord’s application for an additional rent increase on the grounds of significant repairs or renovations is dismissed with leave to reapply.

### Conclusion

The landlord’s application for an additional rent increase on the grounds of significantly lower rent is dismissed without leave to reapply.

The landlord’s application for an additional rent increase on the grounds of significant repairs or renovations is dismissed with 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 26, 2018

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Residential Tenancy Branch