



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding W AND Y HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with the Landlord's Application for an Additional Rent Increase ("application") pursuant to section 43(3) of the *Residential Tenancy Act* ("Act").

The landlord, the landlord's on-site manager, a tenant advocate H.B. ("advocate"), and 12 tenants and/or tenant agents attended the teleconference hearing. The parties were affirmed. The landlord confirmed that he received the tenants' documentary evidence and stated that he was too busy to review the evidence. The landlord did not submit documentary evidence in support of this application, other than who is currently pay what for rent.

Preliminary and Procedural Matter

The parties provided their email addresses at the outset of the hearing which were confirmed by the undersigned arbitrator. The parties confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party. The advocate indicated that the tenants would be in contact with her to receive a copy of the decision for the tenants.

Issues(s) to be Decided

- Has the landlord provided sufficient evidence to support an additional rent increase under section 43(3) of the *Act*?

Background and Evidence

The landlord testified that it has been nine years since the last rent increase and that in 2016 \$50,000.00 was spent on a new boiler and that 14 months later, the boiler stopped working and that the landlord is having an issue having it repaired under the manufacturer warranty. The landlord failed to submit any supporting documentary evidence to support that any amount was spent on boilers such as invoices or receipts, and even if the landlord had spent that amount, the landlord was advised that like a roof, a boiler is part of the regular maintenance and is an expected cost at the end of the boiler's useful lifespan. The landlord was also advised that without documentary evidence to support this application including sufficient comparable properties and other evidence, he would not be successful with his application for an additional rent increase.

It was clear to me that the landlord was unprepared for this hearing and had not read the Policy Guideline related to Rent Increases, the Notice of Dispute Resolution Hearing which indicates that evidence to support the application is important, or the Rules of Procedure which explains how to submit evidence. Given the above and the fact that the landlord's application fails due to insufficient evidence, I found that it was not necessary to hear from the tenants who disputed the additional rent increase through the advocate.

Analysis

Based on the foregoing, and on a balance of probabilities, I find the following.

As the landlord failed to serve the tenants with supporting documentary evidence to support an additional rent increase, I find that to be a fatal flaw in this application and that it must be dismissed as a result.

Policy Guideline 37 – Rent Increases says the following in part:

The arbitrator will determine which factors are relevant to the application before him or her:

- **the rent payable for similar rental units in the property immediately before the proposed increase is to come into effect;**
- the rent history for the affected unit for the preceding 3 years;
- any change in a service or facility provided in the preceding 12 months;

- **any relevant and reasonable change in operating expenses and capital expenditures in the preceding 3 years, and the relationship of such a change to the additional rent increase applied for;**
- a relevant submission from an affected tenant;
- a finding by an arbitrator that the landlord has failed to maintain or repair the property in accordance with the Legislation⁶;
- **whether and to what extent an increase in costs, with respect to repair or maintenance of the property, results from inadequate repair or maintenance in the past;**
- whether a previously approved rent increase, or portion of a rent increase, was reasonably attributable to a landlord's obligation under the Legislation that was not fulfilled;
- whether an arbitrator has set aside a notice to end a tenancy within the preceding 6 months; and
- whether an arbitrator has found, in a previous application for an additional rent increase, that the landlord has submitted false or misleading evidence, or failed to comply with an arbitrator's order for the disclosure of documents.

[Reproduced as written with my emphasis added]

In the matter before me the landlord failed to submit copies of tenancy agreements, supporting receipts or invoices for expenses, and no examples of comparable rental properties that might support an additional rent increase.

Given the above, **I dismiss** the landlord's application due to insufficient evidence **without leave to reapply.**

Conclusion

The landlord's application is dismissed due to insufficient evidence, without leave to reapply.

The landlord is reminded that Information Officers are available to assist applicants Monday to Friday subject to holidays should the landlord have questions in the future related to the *Act*, additional rent increases, etc. Furthermore, the landlord is reminded that the *Act*, regulation, policy guidelines and Rules of Procedure are all available at the following website:

<https://www2.gov.bc.ca/gov/content/housing-tenancy>

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 9, 2018

Residential Tenancy Branch