



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bye Management Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OL

Introduction

This is an application for an additional rent increase, brought by the Landlord(s).

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties who gave testimony were affirmed.

Issue(s) to be Decided

The issue is whether or not landlord should be granted the right to give an additional rent increase of 5.8% over and above the 4% allowed under the Act, for a total of 9.8%.

Background and Evidence

The landlord testified that the District of Barriere installed a new wastewater system and required that the mobile home park connect to that system

The landlord further testified that, as a result of the requirement, the mobile home park, through 2016 in 2017, completed the sewage upgrade/connection to the District of Barriere wastewater system.

The landlord further testified that the total cost, to comply with the requirement of the District of Barriere to connect to the wastewater system, was \$90,330.00.

The landlord further stated that this was a cost that could not have been foreseen under reasonable circumstances, and the costs to connect to this new waste water system will not recur.

The landlord's are therefore requesting an additional rent increase pursuant to section 36 of the Manufactured Home Park Tenancy Act, as allowed under section 33(1) of the regulations, which state:

33 (1)A landlord may apply under section 36 (3) of the Act [*additional rent increase*] if one or more of the following apply:

- (b) the landlord has completed significant repairs or renovations to the manufactured home park in which the manufactured home site is located that
 - (i) are reasonable and necessary, and
 - (ii) will not recur within a time period that is reasonable for the repair or renovation;

The landlord further states that the additional amount of rent they are requesting is 5.8% which, by their calculation, will pay for the required upgrade over a ten-year period.

The spokespersons for the tenants testified that, the majority of the people in this park are retired, and on a fixed income and this extra increase would be a hardship on them.

The spokespersons for the tenants also argued that this park already has some of the highest rents in the area.

The spokespersons for the tenants further stated that, previously sewage was included in the rent, however, as of last year, they were all required to pay \$40.00 per month to the District of Barriere, for sewage discharge, and yet, even though the landlord's no longer deal with the sewage in their septic system, the landlords did not reduce the rent for the loss of that septic service. He further states that, in fact, they got a rent increase as well as having to pay for a service that was previously included.

The spokespersons for the tenants further argued that the landlords should have had a contingency fund for capital expenditures, to cover this sort of upgrade.

In response to the testimony from the tenants the landlord testified that it was the District of Barriere that put this burden both on the landlord and the tenants, and the \$40.00 per month is not paid to the landlord for sewage service, the tenants pay that to the District of Barriere.

The landlord further testified that the landlords still have to maintain the sewage system in the park at their own expense.

In response to the landlord's statement the spokespersons for the tenants stated there is no sewage system in the park any longer, there are simply sewage lines to the districts sewage system. He further states that, prior to the hook up to the district system, they were provided with sewage disposal through the landlord's septic system, at no cost, and now they have to pay \$40.00 per month to the District of Barriere.

Analysis

Section 33 of the Manufactured Home Park Regulations states:

33 (1) A landlord may apply under section 36 (3) of the Act *[additional rent increase]* if one or more of the following apply:

- (b) the landlord has completed significant repairs or renovations to the manufactured home park in which the manufactured home site is located that
 - (i) are reasonable and necessary, and
 - (ii) will not recur within a time period that is reasonable for the repair or renovation;

It is my finding that the landlord has completed significant renovations to the manufactured home Park, that are not only reasonable and necessary, but were required by the District of Barriere.

Further, it is also my finding this renovation will not recur within a time period that is reasonable.

This application for an additional rent increase under section 36 of the Manufactured Home Park Tenancy Act therefore does comply with section 33(1)(b) of the regulations.

However section 33(3) of the regulations states:

(3)The director must consider the following in deciding whether to approve an application for a rent increase under subsection (1):

- (a)the rent payable for similar sites in the manufactured home park immediately before the proposed increase is intended to come into effect;
- (b)the rent history for the affected manufactured home site in the 3 years preceding the date of the application;
- (c)a change in a service or facility that the landlord has provided for the manufactured home park in which the site is located in the 12 months preceding the date of the application;
- (d)a change in operating expenses and capital expenditures in the 3 years preceding the date of the application that the director considers relevant and reasonable;
- (e)the relationship between the change described in paragraph (d) and the rent increase applied for;
- (f)a relevant submission from an affected tenant;
- (g)a finding by the director that the landlord has contravened section 26 of the Act [*obligation to repair and maintain*];
- (h)whether, and to what extent, an increase in costs with respect to repair or maintenance of the manufactured home park results from inadequate repair or maintenance in a previous year;
- (i)a rent increase or a portion of a rent increase previously approved under this section that is reasonably attributable to the cost of performing a landlord's obligation that has not been fulfilled;
- (j)whether the director has set aside a notice to end a tenancy within the 6 months preceding the date of the application;
- (k)whether the director has found, in dispute resolution proceedings in relation to an application under this section, that the landlord has
 - (i)submitted false or misleading evidence, or
 - (ii)failed to comply with an order of the director for the disclosure of documents.

In this case it is my finding that section 33(3)(c) is very relevant because, previously, the landlords had supplied the full sewage services through their septic system, and the tenants were not required to pay anything further for this service, however, once the landlords hooked up to the District of Barriere's sewage system, the landlord can no longer be considered to be providing sewage service to the tenants, especially since the

tenants are required to pay the District of Barriere \$40.00 per month for sewage disposal.

I do not accept the landlord's argument that they are still maintaining the sewage system. They are, still maintaining the pipes that take the sewage to the district of Barriere's waste disposal lines, however they are no longer maintaining the septic system in the park that previously provided sewage disposal for the tenants.

It is my decision therefore pursuant to sections 36 and 62 of the Manufactured Home Park Tenancy Act, that I will not allow the landlord's request for an additional rent increase, as I find that it would be unreasonable for the tenants to have to bear the cost of this connection to the District of Barriere sewage system, when they are already having to pay \$40.00 per month for sewage service that was previously covered under their rent.

Conclusion

This application for an additional rent increase is dismissed, and therefore any rent increase imposed on the tenants must comply with the amount currently allowed under the Manufactured Home Park Tenancy Act, which at this time is 4%.

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: March 19, 2018

Residential Tenancy Branch