



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes (additional) R I

Introduction

This hearing was convened in response to an application by the landlord for a rent increase above the limit set by *Residential Tenancy Act Regulation* respecting 17 occupied rental units of the same residential property. The landlord applied on the basis of *Regulation 23(1)(b)*.

It was undisputed that the landlord served 3 tenants by registered mail and the balance of respondent tenants was served personally by the landlord. Two of the landlord's representatives (the landlord) and 14 tenants from 10 of the rental units attended the hearing. Each had opportunity to be heard, present evidence, ask questions and discuss the application. It was further undisputed that the parties exchanged evidence as has been provided to this proceeding. I have accepted and reviewed all submitted evidence before me. However, only the evidence relevant to the issues is described in this Decision. The parties also provided evidence orally and had opportunity to respond to it. Prior to concluding the hearing all parties acknowledged presenting all the relevant evidence they wished to present.

The hearing proceeded on the merits of the landlord's application pursuant to Residential Tenancy Act **Regulation 23(1)(b)**, which states,

23 (1) A landlord may apply under Section 43(3) of the Act [*additional rent increases*] if one or more of the following apply:

- (b)** *the landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that*
 - (i) could not have been foreseen under reasonable circumstances , and*
 - (ii) will not recur within a time period that is reasonable for the repair or renovation.*

As required the landlord made a single application to increase the rent for all occupied rental units by an equal percentage of **4.50%** (2.50% as per Regulation, and additional rent of 2.00%) representing requested increases of monthly payable rent ranging from \$80.00 to \$150.00, as applicable.

Issue(s) to be Decided

Has the landlord provided sufficient evidence meeting the primary test established by Regulation 23 effectively showing that, 1. they have completed *significant* repairs or renovations to the residential property in which the rental unit is located, and 2. the repairs or renovations made *could not have been foreseen* under reasonable circumstances?

If so, has the landlord provided sufficient evidence that the work done will not recur within a time period that is reasonable for that repair or renovation?

Background and Evidence

The landlord provided the following testimony in support of the application.

The subject residential property is situated in the City of Vancouver area. The property is 33 years old and over the past year has undergone an abundance of repairs and renovations to the aging property, as well as renovations of 3 suites, a certain aesthetic upgrade and replacement of appliances. The landlord stated it has been an “expensive year”.

In support of their testimony and further to the application the landlord provided a series of estimates and invoices primarily for exterior painting, roof deck/membrane replacement, elevator ‘pads’ and costs for complete renovation of 3 suites with associated appliances and other accoutrements.

The parties were informed of the specific intent and prescribed requirements of the legislation respecting additional rent increases. Moreover, that it does not operate to enable a landlord to charge an additional rent amount based solely on the quantum of costs or for costs incurred for predictable and anticipated remedial work to maintain the ongoing useful life of the residential property through reasonable foresight under reasonable circumstances. It is undisputed the landlord’s repairs and renovations,

but moreover their costs, have been significant. However, the landlord acknowledged the work and expense were largely if not entirely dedicated to anticipated needed work

for ordinary and expected deterioration of the 33 year old building as well as certain elections of the landlord, such as planned renovation of certain suites as they became available and a “water feature”.

Analysis

The full text of the Act, Regulation, and other resources indicated can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

I have reviewed all relevant evidence in this matter of a written and oral nature. I find that Residential **Tenancy Policy Guideline #37** aptly addresses this type of application and takes a reasonable stance in respect to applications pursuant to the provisions for *significant repairs or renovations*.

I find that **Residential Tenancy Regulation 23 – Additional rent increase**, in relevant part to this matter, states that a landlord may apply for an additional rent increase if they have completed significant repairs or renovations to the residential property in which the rental units are located and that effectively are not the result of predictable, anticipated (foreseeable) and reasonably occurring circumstances also commonly termed *reasonable wear and tear or natural deterioration*.

I find the overriding test that must be met in this matter for the application to advance is whether the landlord made these repairs or renovations due to factors unforeseen or that could not be anticipated. I find that the landlord’s own testimony clearly states, and their submissions of evidence clearly indicate, that the landlord’s repairs and renovations were for purpose of maintenance due to the aging property and normal life expectancies of the original structure(s); and that the suites renovations were an election of the landlord.

I find the landlord has not satisfied the primary test in this matter. As a result I find that consideration of the remaining subsections of Regulation 23 is moot.

As a result of all the above, and pursuant to Residential Tenancy Regulation **Section 23(4)**, I find that the landlord has not provided sufficient evidence to support their application for an additional rent increase and I therefore must **refuse** the application.

The landlord is at liberty to issue a rent increase as permitted by Regulation.

Conclusion

The landlords' application for an additional rent increase in respect to the subject units is refused and effectively dismissed.

This Decision is final and binding.

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: December 12, 2018

Residential Tenancy Branch