



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ARI-E

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") and the *Residential Tenancy Regulation* (the "**Regulation**") for an additional rent increase due to a financial loss from an extraordinary increase in the operating expenses per section 23(1)(a) of the Regulation.

The landlord was represented by two agents ("**HA**" and "**ZV**") at the hearing. None of the tenants attended.

ZV testified that the landlord's on-site property manager served each of the tenants with the notice of dispute resolution proceeding packages and supporting evidence personally on October 29, 2022. I find that the tenants have been served with the required documents in accordance with the Act.

This application relates to rental units located in an apartment building (the "**Building**") located on a residential property on which a second apartment building is situated. The landlord has made a similar application against the occupants of the second apartment building and is scheduled to come to a hearing shortly.

The landlord's financial statements record the revenue and expenses of both buildings. The landlord provided a single page breakdown of the revenue generated by each building and the associated operating expenses for the financial years of 2020 and 2021.

The landlord bases its application on an increase in the cost of insuring both buildings from \$21,668 in 2021 to \$30,611.42 in 2022. However, the landlord has not provided any documentation as to its, or either building's, revenue or operating expenses for 2022. HA testified that the landlord's 2022 financial statement has not yet been completed.

Section 23(1)(a) of the Regulation states:

Additional rent increase other than for eligible capital expenditures

23(1) A landlord may apply under section 43 (3) [additional rent increase] of the Act for an additional rent increase, other than for eligible capital expenditures, if one or more of the following apply:

- (a) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property;

RTB Policy Guideline 37D addresses additional rent increases due to financial loss from extraordinary increase in operating expenses. It states:

Financial loss happens when expenses exceed revenue over a fiscal year. For example, if the operating costs of a building exceed the revenue generated by the building (usually through payment of rent), this may result in financial loss. The financial loss must be the result of an extraordinary increase in operating expenses.

[emphasis added]

The landlord has not provided sufficient documentation about its or the Building's revenue and expenses for 2022 in order to be able to determine whether its operating expenses exceeded its revenue for that year. HA indicated that he was unsure if this occurred in 2022. Additionally, the documents provided for 2021 indicate that the revenue generated by the Building *exceeded* its operating expenses by \$27,622.18 in 2021.

It may be that the landlord's profit margins were significantly diminished as a result of the increased insurance cost. However, section 23(1)(a) of the Regulation does not allow a landlord to impose an additional rent increase for the purpose of maintaining prior levels of profitability. The purpose of this section is to ensure that landlords are not forced to run their rental properties at a loss, in effect subsidizing tenants rent out of their own pocket.

As there is nothing in evidence to show that the landlord suffered a financial loss in the year of the alleged extraordinary increase in operating expenses, the landlord's application cannot succeed.

Accordingly, I dismiss the application with leave to reapply once the landlord is able to ascertain its revenue and operating expenses for 2022.

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: February 24, 2023

Residential Tenancy Branch