

DECISION

Introduction

This hearing dealt with the Landlord's June 20, 2024, application pursuant to the *Residential Tenancy Act* (the "**Act**") and the *Residential Tenancy Regulation* (the "**Regulation**") for an additional rent increase for capital expenditure pursuant to section 23.1 of the Regulation.

Landlord R.R. attended the hearing as the President of the Corporate Entity identified as the Landlord in this dispute. They were supported by J.B. and B.B. as Tenants and Building Managers for the multi-unit residential property.

The hearing was also attended by 10 Tenants of 10 different units within the residential property.

All parties had the opportunity to provide sworn testimony, refer to evidence and ask questions.

The Landlord testified that all Tenants were served to the door of their unit on July 12/13, with copies of all information, including documentary evidence, as required.

The Tenants objected to this declaration and provided the following clarification:

- The Tenants were served on two occasions, the first of which included Notice of the Dispute, and a USB (memory) stick with no accompanying information – the second act of service included physical copies of the Tenant's respective written tenancy agreements.
- Many of the Tenants testified that they were very concerned by the inclusion of the USB without written explanation and guidance in the information packages, and therefore refused to insert the USBs into their own devices (if they had them) due to safety and security concerns.
- One Tenant indicated that they had spoken to many of their neighbours in the residential property, who are seniors and who were completely confused by the USB since none of them own electronic devices capable of reading the USB.
- Tenant B.P. requested that this application be dismissed without leave to reapply as a consequence of the Landlord's failure to serve evidence to the Tenants, as required by the Act.

I referred parties to RTB Rule of Procedure 3.10.5 which requires parties who serve evidence electronically, to confirm that the other party can access this evidence in advance of the hearing.

The parties agreed that the Landlord never reached out to the Tenants after service to confirm that they could indeed access the contents of the USB stick that was served.

I informed the parties that I would be closing the hearing because ARI-C application types are heavily dependent on documentary evidence and so it would be impractical to continue the hearing with knowledge that the Landlord's evidence could not be considered in my decision making.

I declined to adjourn the hearing to a new date under RTB Rule of Procedure 7.9 because I found that the Landlord's failure to serve their evidence on the Tenants as required by the Act and Rules of Procedure, was their fault alone.

I use my discretion under the Act and Rules of Procedure to give leave to the Landlord to reapply and make a new application to the RTB for the same matter, if they see fit. Leave to reapply is not an extension of any applicable timelines under the Act.

A new application fee will have to be paid by the Landlords and all Tenants will have to be served with Notice and Evidence of the Landlord's claim as required by the Act and RTB Rules of Procedure specific to applications for rent increases for capital expenditures.

Conclusion

The Landlord was not successful. I dismiss their application with leave to reapply. Leave to reapply is not an extension of any applicable timelines under the Act.

I order the Landlord to serve the Tenants with a copy of this decision in accordance with section 88 of the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: September 23, 2024

Residential Tenancy Branch