



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      ARI-E

### **Introduction**

This hearing concerned an application filed by the Landlord pursuant to section 43, *Residential Tenancy Act* (the “Act”) for an additional rent increase because the Landlord’s eligible financial or operational expenses for the rental unit have increased.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package)**

The Tenant is deemed served the fifth day after the Landlord served the proceeding package on October 15, 2024, by Canada Post registered mail. The Landlord provided a copy of the Canada Post receipt and registered mail tracking number to confirm this service.

### **Service of Evidence**

The Landlord stated copies of the Landlord’s evidence were included in the proceeding package served to the Tenant by registered mail. The Tenant confirmed receipt of the Landlord’s evidence and an opportunity to review.

The Tenant submitted no evidence for consideration in this proceeding.

### **Preliminary Matters**

The Landlord’s application included a request for reimbursement of renovation costs in the amount of \$10,000.00. The Landlord’s application states the cost is for significant renovations “to the manufactured home park in which the manufactured home site is located....” The Landlord confirmed the rental unit is not a manufactured home nor located in a manufactured home park. The Landlord was advised at the start of the proceeding that this claim was therefore properly dismissed without leave to reapply for this reason.

## **Issues for Decision**

Is the Landlord entitled to an additional rent increase for an extraordinary increase in operating expenses?

Is the Landlord entitled to an additional rent increase for financial loss for the financing costs of purchasing the rental unit?

## **Background and Evidence**

I have considered the submission of the parties, the documentary evidence as well as the testimony of the participants attending the hearing. However, not all details of the respective submissions are reproduced in this Decision. Only relevant and material evidence related to the Landlord's application and necessary to my findings are set forth in my analysis.

The Tenant's current monthly rent is \$776.26. The Landlord's application requests an 87 per cent rent increase (inclusive of a 3 per cent annual rent increase provided by the Regulations) to a monthly rental rate of \$1,450.00. The Landlord's request is based upon his position that he has incurred an extraordinary increase in operating expenses, and that, acting reasonably, he has incurred a financial loss with respect to costs for purchasing the rental unit.

The Landlord's application notes an increase in operating expenses in the amount of \$3,500.00 when compared to the prior year's operating expenses. The Landlord testified the property insurance has remained relatively constant during this period, but strata fees and property taxes have increased. The Landlord stated the property taxes and strata fees have "doubled" since he purchased the property. The Landlord provided a copy of the most recent property tax bill. The Landlord also provided a spreadsheet he had prepared stating the operating expenses for the rental unit for 2018 to date in 2024.

The Landlord testified he purchased the rental property with a variable rate mortgage. The initial rate was 3 per cent and has since increased to 5.49 per cent and most recently to 5.75 per cent. The Landlord provided a copy of his 2023 mortgage statement summary which documented he had paid \$5,757.22 in interest for that year. The Landlord's monthly mortgage payment is \$673.70.

The Landlord stated the Tenant has been residing in the rental unit since 2017 but he only first increased her rent in 2024. The Landlord stated he would like to sell the unit but is concerned that it is tenanted and with a low rent an investor would not be willing

to purchase the unit. The Landlord provided rent comparison information and noted that one unit in the building was recently advertised at \$1,150.00 per month.

The Landlord testified his expenses for the rental unit exceed his income from the property and he was requesting fair market rent for the unit.

The Tenant's advocate inquired of the Landlord whether his mortgage interest rate had decreased since filing the application as the Bank of Canada had reduced rates in September 2024. The Landlord stated he did not know if his rate had fallen. The advocate also inquired about the additional costs but was informed these were part of the renovation costs the Landlord was seeking and had been earlier informed were in connection with his request for an additional rent increase for a manufactured home park.

## **Analysis**

Section 43(3) of the Act states that in the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

Sections 23(1)(a) and (b) of the Regulation states:

- (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;
  - b) the landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property, if the financing costs could not have been foreseen under reasonable circumstances....

The Landlord's application requests an additional rent increased based upon both a financial loss from an extraordinary increase in operating expenses as well as a financial loss attributable to financing costs for purchase of the rental unit. Each of the basis for the Landlord's request for an additional rent increase is addressed.

### **(i) Financial loss from extraordinary increase in operating expenses**

Residential Tenancy Policy Guideline 37D was published by the Residential Tenancy Branch to assist landlords and tenants on the issues that are likely to be relevant in applications for additional rent increases for expenditures. At part 2, the Guideline states:

Financial loss [occurs] 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...

To prove a financial loss, a landlord must ordinarily submit into evidence an audited or certified financial statement that:

- summarizes the financial condition of the landlord,
- includes a statement of profit and loss, and
- is signed by someone authorized to sign audited financial statements in the Province of British Columbia, or is certified by a professional accountant, or is accompanied by a sworn affidavit of the landlord that the financial statements are true.

If there is more than one corporate entity involved with the residential property, a landlord should submit audited or certified financial statements for each of the corporate entities. Factors that the director must consider on such an application include the rent history for the affected rental unit in the 3 years before the date of the application and a change in operating expenses and capital expenditures in the 3 years before the date of the application that the director considers relevant and reasonable. If a landlord has failed to give rent increases to capture rising operating expenses in previous years, the arbitrator may deny the landlord's application even if they prove financial loss. The landlord should not apply for an additional rent increase to cover the financial loss until after the fiscal year end for the residential property.

Audited or certified financial statements provide probative evidence that a qualified professional reviewed the Landlord's expenses, confirmed the accuracy of those expenses, and likely included all appropriate documents to corroborate the correct calculation of the expenses.

Audited or certified financial statements also assure that a requested rent increase to cover an extraordinary increase in operating expenses does not operate as a windfall to the landlord.

In this case, the Landlord did not provide audited financial statements nor an affidavit in support of financial statements. It is noted the Landlord provided his federal tax return schedule, prepared by an accountant, indicating he owned other rental units which earned rental income. His business financial information for these units was not provided in this proceeding. I find that, absent this evidence, the Landlord has not

provided sufficient evidence to corroborate the claimed expenses and has not established these expenses as “extraordinary,” and I find the absence of this evidence does not satisfactorily establish the Landlord’s financial condition as required for imposition of an additional rent increase.

Additionally, the operating expenses – property insurance, property taxes, and strata fee increases – indicate an increase that I find cannot be characterized as “extraordinary.” Rather, the annual increase in these remaining operating expenses is intended to be covered by the annual rent increase authorized by the regulation.

The Policy Guideline 37D further provides:

The financial loss must be the result of an extraordinary increase in operating expenses. *Extraordinary means very unusual or exceptional.* If operating expenses sharply and suddenly increase without warning, it may be extraordinary. For example, if the cost of a kilowatt hour of electricity doubled in a period of 3 months, this may be considered extraordinary. If the cost of garbage collection increased 7% over the previous year, this would probably not be extraordinary. (emphasis added)

I find the Landlord has not provided sufficient evidence to establish, on a balance of probabilities, the Landlord has sustained an extraordinary increase in operating expenses.

#### (ii) Financial Loss for Financing Costs of Purchasing the Property

Under section 23(1)(b), the landlord must act reasonably in incurring the financial loss for the financing costs of purchasing the residential property. It is a requirement of this section that the financing costs could not have been foreseen under reasonable circumstances. Variable rate mortgage interest rates often rise (and fall) and are a reasonably foreseeable circumstance. Similarly, increases in property taxes is also reasonably foreseeable.

A variable rate mortgage necessarily implies foreseeable rate increases. First, the approximate 2.75 per cent increase in the interest rate from time of purchase to 2024 may not have been anticipated but cannot be considered unforeseen under reasonable circumstances. Moreover, because the interest rate is subject to fluctuations, it may also decrease, as noted by the Tenant’s advocate, whereas a rent increase would not be similarly adjusted.

Therefore, I find the Landlord has not provided sufficient evidence to support the application for an additional rent increase due to an extraordinary increase in financing costs that could not be foreseen under reasonable circumstances. The Landlord’s request for an additional rent increase on this basis is dismissed.

## Conclusion

The Landlord's application for an additional rent increase due to an extraordinary increase in operating expenses and financial loss due to financing costs for the purchase of the unit, is dismissed without leave to reapply.

This decision is issued 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 5, 2024

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Residential Tenancy Branch