



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

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.

This hearing was reconvened after adjournment on January 15, 2025, to allow the Landlord an opportunity to serve each Tenant with the proceeding package in accordance with the Act.

At the re-scheduled hearing, the Landlord confirmed the Tenants had been served with the proceeding package in accordance with the Act, including a copy of the Notice for the re-scheduled hearing as well as copies of the Landlord’s evidence. The Landlord provided proof of service in compliance with the Interim Decision dated January 15, 2025.

The Tenants did not submit documentary evidence for consideration.

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 financing costs incurred for purchasing the property?

Background and Evidence

The Landlord purchased the unit in 2015. The building was constructed in 1974. The rental unit is one bedroom, one bath.

The Landlord entered into a tenancy agreement with the Tenants effective September 1, 2021, on a month-to-month basis. A copy of the tenancy agreement was provided in evidence. The Tenant's current monthly rent is \$1,600.00. The Landlord's gross annual rental receipts for this year as well as the prior year and two years prior have remained at \$19,200.00. Landlord H.P. stated that a main floor one bedroom unit in the building was recently rented at a monthly rate of \$2,000.00 and a 2nd floor unit was rented at a monthly rate of \$2,300.00.

The Landlord requests an additional rent increase of 8.87 per cent, in addition to the 3 per cent annual increase. The Landlord's application provides this is a \$300.00 per month increase to the Tenants' rent.

Landlord H.P. explained Tenant V.C. is a family friend. The Landlord's rented the unit to Tenant V.C. when she was attending university. Thereafter, the Tenant remained in the unit and then married Tenant T.C. Landlord A.P. stated that over the course of time, the operating and financing costs for the unit have outpaced that of the rental income, resulting in expenses greater than rental income.

The Landlord's application provides that repairs were made to the strata building resulting in two special levies. In 2023 new electrical wiring was installed in the building. This overall cost was approximately \$51,000.00 and the rental unit was assessed its prorated amount of \$1,377.00. The Landlord stated this special assessment has been paid. In 2024, an assessment in the amount of \$8,100.00 was made for the unit when the strata installed a new elevator (at an approximate general overall cost of approximately \$300,000.00). The Landlord has paid this assessment as well. The Landlord submitted corroborating documents for each assessment.

The Landlord's operating costs have increased from \$21,592.65 two years ago, to \$21,491.64 the prior year to \$22,813.32 the most recent year from the date of the application filed October 5, 2024. Other costs, aside from the special assessments, have remained at \$688.50 for the prior year as well as two years prior to the application. The strata maintenance fees have increased \$284.76 from the prior year and property taxes have increased \$108.00 from the previous year. The Landlord submitted documentation to support payment of property taxes. The Landlord stated they did not include property insurance in their application.

The Landlord financed the purchase of the unit. The principal amount of the mortgage was \$227,000.00. In 2019, the mortgage interest rate was 2.24 percent. By 2024, the mortgage interest rate had risen to 4.5 percent. The increase has resulted in the Landlord's mortgage payments increasing by \$60.00 per month or \$720.00 from the prior year compared to the previous year. The Landlord provided copies of their mortgage statements in evidence.

The Tenants opposed the Landlord's request for an additional rent increase. Tenant T.C. stated their rent "covers" two-thirds or 85 percent of the operating expenses and mortgage costs incurred by the Landlord each month, as calculated by the Tenants. The Tenants agreed the Landlord was "upside-down" in their investment but adopted the position it was the Landlord's risk of ownership and the Landlord had equity in the rental unit. Regarding the special assessments from the strata for improvements in the building, the Tenants were of the opinion that when the Landlord purchased the unit they knew the building was older and improvements were thus foreseeable.

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 Landlord's requests is addressed below.

(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 exorbitant profits.

In this case, the Landlord did not provide audited financial statements nor an affidavit in support of financial statements. I find that, absent this evidence, the Landlord has not provided sufficient evidence to corroborate these expenses.

Additionally, the operating expenses – strata fees, property taxes, and special levies – indicate a modest increase I find cannot be characterized as “extraordinary.” Rather,

the annual increase in these remaining operating expenses are 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

The Landlord further requested an additional rent increase based upon an incurred financial loss due to increased financial costs in financing the rental unit. The Landlord's application states, and is supported by documentary evidence, that the Landlord financed the purchase of the rental unit with a mortgage. As of the Landlord's application, the mortgage interest rate had risen from 2.24 percent in 2019 to 4.5 percent in 2024. This, in turn, increased the Landlord's monthly payment.

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. However, I do not find the Landlord has established the mortgage interest rate change to finance the purchase of the unit is an unforeseeable event in reasonable circumstances where a mortgage is subject to renewal every 3 to 5 years. While I appreciate the Landlord's position that it was not anticipated and that they held off on raising rent due to their personal friendship with Tenant V.C. and her personal situation over the past several years, these are not circumstances that would support an additional rent increase under the Regulation.

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: March 25, 2025

Residential Tenancy Branch