



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      O

### Introduction

This matter dealt with an application by the Landlord for an order approving a rent increase that is greater than the amount permitted under the Regulations to the Act.

### Issues(s) to be Decided

1. Is the Landlord entitled to increase the rent by a greater amount than permitted under the Regulations to the Act?

### Background and Evidence

The Landlord claimed that the current owner purchased the rental property in 2007. The rental property consists of 40 units and was built in 1972. The Landlord also said that the units in question are approximately 700 square feet in area and have one bedroom. Hot water is included in the rent, however the Tenants are responsible for all other utilities. Each unit has a refrigerator, stove, window coverings, intercom and balcony. The rental property has a laundry room and parking and storage facilities but they are not included in the rent.

The Landlord argued that rental property was well maintained and in an area close to transit, shopping, entertainment and parks. The Landlord said that last year, the carpeting in the lobby was removed and replaced with tiles. New coin washers and dryers were purchased 2 years ago and the Landlord also had to replace a motor on the parkade gate as well as make some roof repairs. The Landlord also claimed that from time to time the Landlord renovated suites when the Tenants moved out.

The Landlord said he did not know what rent increases had taken effect prior to the new owner purchasing the rental property in 2007. In 2007 and 2008, the Landlord increased the rent by approximately 4%. In 2009, the Landlord said that all but 5 Tenants of the rental property agreed to a rent increase of approximately 8%. The Landlord said that other one bedroom rental units in the rental property currently rent for \$800.00 - \$820.00 per month.

In support of his position that the rent for these rental units was below market value, the Landlord relied on the CMHC Rental Market report which shows that average rent as of October 2008 for one bedroom units in this geographic area was \$770.00 per month.

The Landlord also relied on 4 rental advertisements in the same geographic area that ranged from \$950.00 to \$1,050.00 per month.

The Tenants argued that the advertisements relied on by the Landlord were not comparable because utilities were included in the rent, in some cases, parking, storage and laundry were included and in other cases, the rental property was newly renovated. The Tenants also argued that the Landlord's comparables were located in a more desirable area closer to restaurants, grocery stores, parks and the Sky Train. The Tenants relied on advertisements for rental units in the same geographic area that ranged from \$595.00 to \$750.00 per month. One of the Tenants also provided statements from witnesses who lived in the area and claimed that they paid between \$595.00 and \$750.00 per month. The Tenants claimed that the higher range rents included utilities and parking and were closer to amenities such as the beach, the PNE and Play Land.

The Tenants claimed that the Landlord never gave them proper Notices of Rent Increase in previous years. The Tenants also claimed that aside from replacing carpeting in the lobby with tile and installing new washers and dryers in the laundry room, no upgrades or renovations had been made to the rental property or to their rental units which they claimed were in need of repair. Consequently the Tenants argued that the current rents were within a range of market rents for similar rental units in the same geographic area.

## Analysis

The Landlord brought his application under the following sections of the Regulations to the Act:

- **s. 23(1)(a)** After a rent increase allowed under s. 22, the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as the rental unit;
- **s. 23(1)(b)** the Landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that could not have been foreseen under reasonable circumstances, and will not recur within a time period that is reasonable for the repair or renovation;
- **s. 23(1)(c)** the Landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property.

However, section 23(2) of the Regulations to the Act says that if the Landlord applies for an increase under s. 23(1)(b), (c) or (d) the Landlord must make a single application to increase the rent for all rental units in the residential property by an equal



# Dispute Resolution Services

Page: 3

Residential Tenancy Branch  
Ministry of Housing and Social Development

percentage. The Landlord claimed that he increased the rent of all of the other tenants in the rental property by 8%, however, because the Tenants in this matter refused to accept it, he sought a rent increase with respect to these Tenants of 28.7%. In the circumstances, I find that the Landlord has not made a single application to increase all of the rents in the rental property by an equal percentage and as a result, the Landlord's application for an additional rent increase on the grounds of s. 23(1)(b) and (c) of the Regulations to the Act is dismissed.

With respect to the other ground alleged by the Landlord, I find that the examples relied on by the Landlord were not reasonable comparables as all of them included heat in the rent, some included parking, storage and internet and almost all were newer buildings or newly renovated. Furthermore, the difficulty with the CMHC information provided by the Landlord is that it is a year old and the market has changed in that time and it does not indicate if it is a base rent or total rent (that includes utilities). I find that a number of the Tenants' examples were more helpful in that they indicated where they were located and what amenities were included in the rent. Having regard to all of the evidence, I find that the average market rent for similar rental units in the same geographic area is between \$700.00 and \$725.00 per month.

The Tenants' current rents range from \$612.00 to \$642.00 per month. With the permitted increase of 3.7%, the Tenants' rents would be \$634.64 to \$665.75 which is approximately \$60.00 per month or 10% lower than the market rent for similar units in the same geographic area. In the circumstances, I cannot conclude that the Tenants' rents are **significantly lower** than rent paid for other rental units in the same geographic area. Section 23(4) of the Regulations to the Act says that the director may grant the application in full or in part, refuse the application or order that an increase be phased over a period of time. As the Landlord has failed to satisfy any of the grounds on his application, it is dismissed.

## Conclusion

The Landlord's application is dismissed. 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: September 30, 2009.

---

Dispute Resolution Officer