



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Coast Realty Property Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code: O

Introduction

This Hearing dealt with the Landlord's application for a rent increase in excess of the limit set by the *Residential Tenancy Regulation* (the "Regulation").

The parties gave affirmed evidence at the Hearing.

It was determined that the Landlord served the Tenant with the Application for Additional Rent Increase, Notice of Hearing documents and copies of the Landlord's documentary evidence by registered mail sent April 19, 2014.

It was also determined that the Tenant served the Landlord with copies of her documentary evidence by leaving the documents with the Landlord's agent on May 30, 2014.

Issue(s) to be Decided

After a rent increase permitted by the Regulation, is the rent for the subject rental unit significantly lower than rent payable for other rental units similar to and in the same geographic area as the subject rental unit?

Background and Evidence

Landlord's testimony

The Landlord did not stipulate the percentage of increase they were requesting in box C of the Application for Additional Rent Increase. However, the Landlord is applying to increase the monthly rent for the subject rental unit to \$1,600.00, which is approximately 45% more than the Tenant is currently paying. After subtracting the permitted increase of 2.2%, the additional increase requested is 42.8%.

This tenancy began on October 1, 2012. No rent increase has been implemented since the beginning of the tenancy. Monthly rent is \$1,100.00, due on the first day of each month.

The Landlord was appointed as receiver in August, 2013, and took over managing the rental property along with the builder effective November 30, 2013.

The rental unit is one half of a duplex of newer construction. The rental property is approximately 2,000 square feet on each side. The Landlord testified that each side of the duplex is identical with 4 bedrooms, study, 3 full baths, new appliances, laundry and a garage. The Landlord testified that the other side of the duplex was recently rented out at \$1,600.00 per month. The Landlord did not provide a copy of that tenancy agreement.

The Landlord testified that mortgage, insurance and property tax payments come to approximately \$2,600.00 for the rental property (both sides of the duplex).

The Landlord testified that the rental property is located on the “east side” of the river, which is a more desirable location than the “west side” of the river, which is considered the “lower end” side of town. She stated that it is close to a college and therefore is also a desirable location.

The Landlord provided the following information with respect to other rental units:

Unit	Current rent	Notes
1	\$1,600.00	identical unit, other side of duplex
2	\$1,450.00	1800 sq. ft. duplex; 1 – 2 kms from college; near river; 5 bedrooms, 2 ½ baths
3	\$1,500.00	2400 sq. ft. single family dwelling; “rent negotiable upon signing a lease”; 4 bedrooms, 2 baths; near college; laundry
4	\$1,500.00	2000 sq. ft. single family dwelling; 3 bedrooms plus den; laundry
5	\$1,250.00	Upper suite of house; 3 bedrooms, 1 bath; not in same area; rent includes electricity and gas
6	\$1,350.00	1800 sq. ft. single family dwelling; 3 bedrooms, 1 ½ baths; laundry; on “west side” of river
7	\$1,250.00	duplex, unspecified size; 3 bedrooms, 1 ½ bath; laundry; rent does not include utilities; on “west side” of river
8	\$1,450.00	fully furnished single family dwelling, unspecified size; 3 bedrooms
9	\$2,000.00	3300 sq. ft. single family dwelling; 5 bedrooms plus den, 2 ½ baths; one or two year lease; laundry

Tenant’s testimony

The Tenant stated that the occupants who moved into the other side of the duplex have

moved out because the rent was too high. She stated that the rental property is not in a “higher class” area of town. She stated that there is new development taking place on the “west side” of the river and that it was quickly becoming a desirable place to live. The Tenant stated that before she moved into the rental unit, she was renting “up the block” and that she paid \$1,450.00 for a larger single family dwelling.

The Tenant disputed that the two sides of the rental property were identical. She stated that the inside “finishings” are different and that the other side is professionally landscaped.

The Tenant stated that there were two other duplexes in the same area as the rental property. One is approximately 1,600 sq ft with 3 bedrooms, 2 baths on each side and is renting for \$900.00 each side. The other is approximately 2,500 sq ft with 4 bedrooms on each side and is renting for \$1,150.00 each side.

Landlord’s response to Tenant’s testimony

The Landlord submitted that the Tenant’s examples are not comparable to the rental property, as they are located farther from the college and are not new.

The Landlord stated that the occupants of the other side of the duplex moved out because they had marital problems and not because the rent was too high. She stated that she would not landscape the rental unit at the price the Tenant was paying for rent. The Landlord testified that the occupants lived in the other side of the duplex for only 6 months.

Analysis

The parties provided additional testimony and documentary evidence that was not relevant to the Landlord’s Application for Additional Rent Increase. I have only recorded the relevant testimony and evidence.

The Landlord, as Applicant, has the responsibility for proving that the rent for the rental unit is significantly lower than the current rent payable for **similar units in the same geographic area**. “Similar units” means rental units of comparable size, age, construction, interior and exterior ambiance (including view), and sense of community. The “same geographic area” means the area located within a reasonable kilometre radius of the subject rental units, with similar physical and intrinsic characteristics.

Additional rent increases for significantly lower rent are granted only in exceptional circumstances. It is not sufficient for the Landlord to claim that the rental unit has

significantly lower rent resulting from the Landlord's recent success at renting out the other side of the duplex at a higher rate.

Specific and detailed information, such as rents for all the comparable residential properties in the immediate geographical area with similar amenities, should be part of the evidence provided by the Landlord. In this case, the Landlord has provided examples that are dissimilar (for example, single family or older dwellings not within the same geographical area). Of the 9 examples given, numbers 1, 2, 5 and 7 are the closest comparables with respect to the type of rental property; however, the Landlord testified that numbers 2, 5 and 7 were older buildings. It is important to note that the Landlord did not provide detailed descriptions of the two duplexes that the Tenant referred to.

The Landlord agreed that the rental unit is not landscaped. The Landlord did not dispute that the other side has different finishings from the rental unit. Therefore, I find that the other side of the duplex is not comparable to the rental unit.

The Landlord testified that the cost of the mortgage, insurance and property taxes exceeded the current revenue on the rental property; however, I find that this is irrelevant to the Landlord's application. The issue is whether or not rent is significantly lower than other comparable rental units.

I accept that it may be difficult to find similar rental units to the subject property; however, I find that the Landlord has provided insufficient evidence to prove that the rent for rental unit is significantly lower than rent payable for other rental units similar to and in the same geographic area as the subject rental unit.

Therefore, I refuse the Landlord's Application for an Additional Rent Increase. The Landlord is at liberty to provide the Tenant with a Notice of Rent Increase up to the amount calculated in accordance with the Regulation.

Conclusion

I refuse the Landlord's Application for an Additional Rent Increase.

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: June 23, 2014

