



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TPB Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O

Introduction

This hearing was convened in response to an application by the Landlord pursuant to section 36(3) of the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders increasing the rent in an amount greater than the amount calculated under the Regulations.

Tenant CD did not attend nor was represented at the hearing. I accept the Landlord’s evidence that Tenant CD was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlords and Tenants were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to increase the rent greater than allowed?

Background and Evidence

The tenancies variously started between 2002 and 2007. Current rents for the pad sites at the park are either \$188.00 or \$234.00. The park is located on a highway in the midway point between two urban centers at 16 km from either centre. The sites are serviced by a septic system maintained by the Landlord. The Landlord seeks to increase all the sites to \$300.00 except for one site (“Site A”). The Landlord seeks to increase Site A to \$350.00 as it is larger than the other sites. The Landlord provided no outside comparable for Site A other than a local site that is paying \$300.00 for the pad rent however the useable space on this site is smaller than Site A.

The Landlord states that recent improvements were made to the water system that has previously been subject to a boil water advisory. The Landlord states that while they could have brought the system into compliance by adding chlorine to the water they instead choose to install a UV system and more effective tanks. This has increased the operating expenses by approximately \$2,300.00 per year.

The Landlord purchased the home park in 2014 and did not increase the site rents in 2015. The Landlord states that this increase was not given on the advice of the Residential Tenancy Branch. The Landlord submits that the rental increase history prior to the purchase of the park shows that rents were either not raised or were raised inconsistently.

The Landlord states that 5 other parks in the region have pad rents between \$281.00 and \$420.00. Of these parks, three are located in or within a kilometer of an urban centre. The other two parks are located 5 and 10 kilometers from the urban centres. The Landlord states that comparable park with the pad rent of \$281.00 is the furthest from either urban centre. The comparable park with the highest pad rent of \$420.00 is located in one of the urban centres. The Landlord states that the pad rents in each of the parks are all equal regardless of the size of the lots.

The Tenants state that the other locations being compared are all on the municipal water system. The Landlord states that one of the comparable parks has chlorinated water. The Tenants state that as they are not on a municipal water system and that their dependence on hard water results in greater costs to the Tenants due to the harsher effects of the water. For example the Tenant states that because of the water they must replace their tanks after 7 years and the tank element requires replacement every two years.

The Tenants state that given their distance to the nearest urban centre, they have higher driving costs than the other sites. The Tenants states that they do not have access to fire department services at all and as a result pay higher fire insurance costs as the other parks all have access to a fire department response. One Tenant states that its insurance cost is \$70.00 per month with a \$1,000.00 deductible. This Tenant states that if the deductible were lowered the monthly cost would increase. The Tenant states that they so not have snow removal services unlike the other parks being compared. The Tenant states that their snow removal gets done when the

Landlord decides and that it is not consistent. The Tenant states that their roads are not paved. The Tenant states that the other parks have street lights unlike their park with no lighting resulting in reduced safety.

The Tenants state that they are on a lower amp system than 3 out of the 5 comparable parks and that this also makes a big difference. The Tenant states that the lower amps result in dim lighting and damage to microwaves. The Tenant states that there are electrical issues with several units in the park.

The Tenant states that there is no regular garbage pickup unlike the other parks that are provided with municipal garbage services. The Tenant states that they only have one dumpster for use by all the 25 sites and that it is usually full. The Tenant states that they are also unable to obtain reduced bundles rates for their phone, internet, and cable because they are in a rural area. The Tenant states that the other parks have enforced park rules and that no park rules are enforced at their park as there is no landlord presence on site. The Tenants state that if they do have a complaint there is either no response or an ineffective response.

The Landlord states that the Tenants have provided mostly hearsay evidence. The Landlord states that the highways department is called by the Landlord to carry out snow removal when there is more than 3 inches of snowfall. The Landlord states that the Tenant's evidence is more complaint than factual differences. The Landlord states that they recently spread recycled asphalt on the roads to improve them. The Landlord states that they do have a representative on site and provided this person's identity at the hearing.

Analysis

Section 36(3) of the Act provides that in the circumstances prescribed in the regulations, a landlord may request the approval of a rent increase in an amount that is greater than the amount calculated under the regulations by making an application for dispute resolution. The Regulations set the allowable increase for 2016 at 2.9%. The rent amount after the allowable increase for the units would be as follows:

#3, 6, 7 and 16 current rent of \$188.00, allowable increase of 2.9% (5.45) = **193.45**. The Landlord seeks an increase to \$300.00 or an increase of **\$106.55 (35.5%)**. #8, 11A, and 16A

current rent of \$234.00, allowable increase of 2.9% (6.79) = **240.79**. The Landlord seeks an increase to \$300.00 or an increase of **\$60.00 (19.7%)**.

Section 33 of the Regulations provides that a landlord may apply for an additional rent increase if, inter alia, after the annual rent increase allowed, the rent for the manufactured home site is significantly lower than the rent payable for other manufactured home sites that are similar to, and in the same geographic area as, the manufactured home site. The rent history for these units is that the previous landlord did not raise the rents on a yearly basis. There is no evidence that the current Landlord was not aware of this financial history when the park was purchased. Although the Landlord could have raised the rent once since having purchased the park, the Landlord did not do so and there is no evidence of anything compelling that stopped the Landlord from raising the rent as allowed. I do not accept the Landlord's evidence that the rents were not raised based on the advice of the Residential Tenancy Branch (the "RTB") as the RTB may not provide advice.

All of the parks provided as evidence of similar park sites, except for one, are either inside or within a few kilometers of an urban centre unlike the current park located 15 kilometers from any urban centre. The exception park, while more comparable in terms of distance, has pad rentals at \$281.00. This is not a significant difference to the rents of \$240.79.

While there is a significant difference in rental amounts at \$193.45 with the park sites provided by the Landlord, there is also evidence of differences in services, facilities, cost of living expenses and safety or risk factors with those sites. The evidence indicates that there are fewer services, poorer facilities, greater living expenses and greater safety risks with the Landlord's park in comparison to the other parks. I consider the absence of fire protection services to be a significant differentiating factor. Although the Landlord improved the water system, I note that prior to this repair the Tenants were under a water advisory that required attention by the Landlord.

For these reasons I find that the Landlord has not shown comparable or similar sites at significantly higher rents and has therefore not reasonably justified the increase sought. The Landlord provided no evidence of any comparable sites for the site increase to \$350.00. I

therefore dismiss the claims for a rent increase in relation to all of the sites.

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 *Manufactured Home Park Tenancy Act*.

Dated: November 14, 2016

Residential Tenancy Branch