



Landlord
and
Tenant
Board

Order under Section 126
Residential Tenancies Act, 2006

In the matter of: 165 ONTARIO STREET, ST.CATHARINES, ON, L2R5K4

Between: NORTHVIEW APARTMENT REIT Landlord
and

Refer to attached Schedule 2 Tenants

NORTHVIEW APARTMENT REIT (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex.

A Case Management hearing was held for this application in St. Catharines on November 7, 2018.

The following parties attended the hearing: the Landlord's representative, Paul Cappa, and several Tenants, assisted by L. Ridsdill, Tenant Duty Counsel.

At the Case Management hearing the parties agreed to the following:

1. The maximum rent increase above the guideline because of capital expenditures is 7.40%. This increase is for the following capital expenditures:
 - a. Parking Garage Repairs;
 - b. Common Area; and
 - c. Roof Replacement.
2. Where the Landlord requested an increase of 7.74%, the maximum increase above the guideline for these units is 7.40%. This increase is to be taken as follows: 2.50% in the first year; 2.50% in the second year and 2.40% in the third year.
3. The weighted useful life for the capital expenditures is 15 years.
4. The first effective date of the rent increase above the guideline is July 1, 2017.
5. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order within 90 days of the date of this order.

On consent of the parties, it is ordered that:

1. The Landlord may increase the rents charged by 7.40% for the units set out in Schedule 1.
2. The percentage increase set out in paragraph 1 is to be taken as follows:
 - a. The Landlord may increase the rents charged by 2.50% within the time period of July 1, 2017 to June 30, 2018;
 - b. The Landlord may increase the rents charged by 2.50% within the time period of July 1, 2018 to June 30, 2019; and
 - c. The Landlord may increase the rents charged by 2.40% within the time period of July 1, 2019 to June 30, 2020.
3. The percentage increase set out in paragraph 1 may be taken in addition to the annual guideline in effect on the increase date for the unit.
4. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order within 90 days.
5. If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the same Tenant remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 3 for information about the date and amount of the rent reduction.

Melinda Jamieson

December 19, 2018

Date Issued

Melinda Jamieson

Dispute Resolution Officer
Landlord and Tenant Board

**Southern-RO
6th Floor, 119 King Street West
Hamilton, ON, L8P4Y7
Fax No: 905 - 521 - 7870**

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

Schedule 3- Rent Reduction related to Capital Expenditures

A. Date of Rent Reduction

If the Tenant's rent is increased based on capital expenditures during the period 2017 then:

The date of the rent reduction will be the day before:

- the date of the Tenant's first rent increase under this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in the order).

Example:

If the Tenant's rent was increased on June 1, 2007 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on May 31, 2017.

If the Tenant's rent was *not* increased based on capital expenditures during the period 2017 but was increased during the later periods set out in the order then:

The date of the rent reduction will be the day before:

- the First Effective Date of Rent Increase in this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in the order).

Example:

If the first effective date of increase in this order is April 1, 2007 and the weighted useful life for capital expenditures is 12 years, then the rent will be reduced on March 31, 2019.

B. Amount of the Rent Reduction

If the Tenant's rent is increased by the total percentage increase set out in this order then:

The rent must be reduced by the total percentage increase set out in this order for capital expenditures.

If the Tenant's rent is *not* increased by the total percentage increase set out in this order then:

The rent must be reduced by an amount determined in accordance with the prescribed rules which may be equal to or less than the total percentage increase set out in this order for capital expenditures.

Important Notes:

1. The landlord may increase the rent charged by the ordered increase within the time period specified if at least 12 months have passed since the last rent increase or since the tenant moved in, and if the landlord has given the tenant at least 90 days proper Notice of Rent Increase. Any part of the ordered increase that is not taken within the time period specified cannot be added to subsequent rent increases in subsequent time periods.
2. If the landlord has given a Notice of Rent Increase for a rent increase that is less than the ordered increase, the landlord may only take the rent increase set out in the Notice.
3. ~~The ordered increase does not affect tenants who moved into the complex on or after April 2, 2017. The landlord cannot add the ordered increase to the rents these tenants pay.~~
4. The annual guideline for 2017 is 1.5%, for 2018 is 1.8% and for 2019 is 1.8%.