



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: DRI FF

Introduction

This hearing dealt with a tenant's application to dispute an additional rent increase. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on January 28, 2009, the landlord did not participate in the conference call hearing.

Issue(s) to be Decided

Should the notice of additional rent increase be cancelled?

What is the tenant's current monthly pad rent?

Is the tenant entitled to compensation for overpayments of rent?

Background and Evidence

The tenant began paying pad rent in the manufactured home park several years ago. The landlord would increase the rent annually with verbal notice to the tenant. In 2007, the tenant's rent was \$325 per month. In 2008, the landlord increased the rent to \$355 per month.

On December 5, 2008 the tenant received a notice from the landlord that they intended to raise her rent, effective February 1, 2009. The first page of the notice contained the typed amount of new rent as \$380, but this amount was crossed out and a handwritten notation indicates a new rent of \$375. The fourth page of the notice indicates that the tenant's current rent is \$360 and the new rent will be \$380.

The tenant submitted that the notice of rent increase contained calculation errors and ought to be set aside. The most significant error was the amount quoted for garbage collection, as a private company collects the garbage and the landlord arguably would not then be paying a government levy for garbage collection. Further, the notice does not provide three full months' notice of the increase, as required, and the inflation increase should be \$72, not \$74.

The tenant also provided as supporting evidence copies of some of her rent cheques, which show that she paid \$325 per month in 2007 and \$355 per month in 2008.

Analysis

I accept the tenant's undisputed evidence regarding errors on the notice of rent increase, and on that basis the notice of rent increase is cancelled. I also accept the tenant's evidence regarding the improper rent increases. A landlord may only increase the rent in accordance with the *Manufactured Home Park Tenancy Act*. As the landlord did not give the tenant proper notice in the approved form, I find that the tenant's monthly rent is \$325, and it will remain at this rate until such time as the landlord increases the rent by issuing proper notice in the approved form.

Section 36 of the Act states that if a landlord collects a rent increase that does not comply with the Act, the tenant may deduct the increase from rent or otherwise recover the increase. I find that the tenant has over-paid her rent from January 2008 to present by the amount of \$30 per month, for a period of 15 months, for a total of \$450.

As the tenant was successful in her application, she is also entitled to recovery of the \$50 filing fee for the cost of her application.

Conclusion

The notice of rent increase is invalid and therefore cancelled.

The tenant's current monthly pad rent is \$325.

The tenant is entitled to deduct \$500 from future rent, ie pay no rent for April 2009 (\$325), deduct \$175 from the rent for May 2009 and pay \$150 for May 2009, then resume monthly rent payments of \$325 beginning June 2009.

Dated March 2, 2009.