

DECISION

Dispute Codes: DRI, CNC

Introduction

This hearing dealt with an application by the tenant to cancel the notice to end tenancy and to dispute an additional rent increase.

Issues to be Decided

Whether the notice to end tenancy should be cancelled?

Whether the tenant is entitled to recovery of an additional rent increase?

Background and Evidence

The tenancy began approximately 25 years ago. Neither party had knowledge of the exact amount of security deposit collected by the landlord. A monthly rent in the amount of \$910.00 is payable in advance on the first day of each month. The tenant had been late in paying rent on numerous occasions. On January 26, 2009, the landlord served the tenant with a notice to end tenancy for cause based on repeatedly late payment.

Analysis

Issue #1 – whether the notice to end tenancy should be cancelled?

The landlord said that the tenant was late in paying rent on these occasions: November 9 and December 16 of 2005; January 31, February 9, March 21, April 7, June 23, July 14, August 31, September 21, October 10, October 20, December 8 and December 15 of 2006; January 23, March 5, May 5, May 13, June 12, August 7, August 22, November 13 and December 8 and December 19 of 2008; and January 9 of 2009. The landlord also said that during the past two years, he had given the tenant three verbal warnings to pay the rent on time.

The tenant did not deny being late in paying the rent on many occasions. She said that there were a few minor mistakes with the landlord's record but she did not specify what the mistakes were. The tenant acknowledged being warned by the landlord to pay rent on time sometime in 2007 and in early 2008.

Based on the above, I find that the landlord has established grounds to end the tenancy. I therefore dismiss the tenant's application to cancel the notice to end tenancy.

Issue #2 – Whether the tenant is entitled to recovery an additional rent increase?

Both parties agreed to the following facts. In March 2008, the tenant's rent was increased from \$845.00 to \$910.00. This amounts to a \$65.00 or 7.6% rent increase. The allowable rent increase for 2008 was 3.7%. Based on this rate, the allowable rent increase should have been \$31.26. Accordingly, I find that the tenant is entitled to recovery of \$33.74 for each of the months from March 2008 and March 2009 for a total of \$438.62. I grant the tenant an order under section 67 for the balance due of \$438.62. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated March 18, 2009.