

DECISION

Dispute Codes DRI

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to dispute a rent increase.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*, served in person by the tenant to the landlord on April 16, 2009 at approximately 9:30 a.m. at the landlord's place of business.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Whether the tenant is entitled to an Order under Section 43 of the *Act* to cancel a notice of rent increase.

Background and Evidence

The tenancy is a month to month tenancy which began on April 1, 2005 with the current rent payable on the first of each month in the amount of \$495.00.

The tenant testified that she received a notice of rent increase dated March 31, 2009 for an increase of \$40.00, which is an increase of 8.1%.

The tenant confirmed that her last rent increase was for \$20.00 back on May 1, 2007.

Analysis

Section 43 of the *Residential Tenancy Act* stipulates that a landlord may impose a rent increase only up to the amount calculated in accordance with the regulations. Section 22 of the *Residential Tenancy Regulations* stipulates a landlord may impose a rent increase that is no greater than the percentage amount calculated as follows:
percentage amount = inflation rate + 2% and for 2009 the amount equals 3.7%.

Based on the aforementioned I find that the notice of rent increase issued to the tenant does not comply with the *Residential Tenancy Act* and the *Residential Tenancy Regulations* and hereby cancel the notice of rent increase.

If the landlord wishes to proceed with increasing the tenant's rent they are required to issue a new three month notice of rent increase, effective three months after the tenant receives the new notice, in compliance with the *Residential Tenancy Act* and the *Residential Tenancy Regulations*

Conclusion

I Hereby Order that the Notice of Rent Increase, issued on March 31, 2009, is cancelled, and is of no force or effect.

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: May 29, 2009.

Dispute Resolution Officer