



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI, MNDC, OLC, RP, FF, O

Introduction

This matter dealt with an application by the Tenant to dispute a rent increase, for compensation for damage or loss under the Act or tenancy agreement, to recover the filing fee for this proceeding and for an order that the Landlord comply with the Act by making repairs to the rental property.

Issues(s) to be Decided

1. Has the Tenant received a rent increase that does not comply with the Act?
2. Is a repair order necessary?
3. Is the Tenant entitled to compensation and if so, how much?

Background and Evidence

This tenancy started on September 1, 2006 and the rent at that time was \$1,200.00 per month. On August 30, 2008, the Landlord gave the Tenant a Notice of Rent increase for \$48.00 to take effect on December 1, 2008. On September 18, 2009, the Landlord gave the Tenant a Notice of Rent Increase for \$46.00 to take effect on January 1, 2010.

Analysis

Section 43(1) of the Act says that a Landlord may impose a rent increase only up to the amount calculated in accordance with the Regulations, permitted by Order of the Director or agreed to by the tenant in writing.

The permitted rent increase for 2008 was 3.7% or in this case \$44.40. Consequently, the Tenant's rent as of December 1, 2008 should have been \$1,244.40 rather than \$1,248.00. The permitted rent increase for 2010 is 3.2%. When this increase is calculated on \$1,244.40, the permitted increase for 2010 is \$39.82 for a total of \$1,284.22 (instead of \$1,294.00 indicated on the Notice of Rent Increase).

Section 43(5) of the Act states that a Tenant may deduct an overpayment from rent. Consequently, the Tenant may deduct any overpayments of rent (of \$3.60 per month)



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that he made for the period December 1, 2008 to November 1, 2009. I also order the Tenant to provide with his rent payment a written statement showing the months for which he is making a deduction for overpayments.

The Notice of Rent Increase dated September 18, 2009 is amended so that the rent payable as of January 1, 2010 is \$1,284.22.

Conclusion

The balance of the matters set out on the Tenant's application are adjourned to December 14, 2009 at 9:00 a.m.

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: November 05, 2009.

Dispute Resolution Officer