

DECISION

Dispute Codes:

MT, CNC, CNL, DRI, AAT, and FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause, to set aside a Notice to End Tenancy for Landlord's Use of Property, for more time to apply to dispute a Notice to End Tenancy, to dispute an additional rent increase, for an Order requiring the Landlord to grant access to the rental unit, and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the address noted on the Application, on June 10, 2010. He was unable to provide a copy of the Canada post receipt corroborating this statement but he did cite a tracking number. In absence of evidence to the contrary, I accept that these documents were served in accordance with section 89 of the *Act*, however the Landlord did not appear at the hearing.

At the hearing the Tenant stated that he was not served with a Notice to End Tenancy for Cause. On this basis I decline to consider his application to set aside a Notice to End Tenancy for Cause.

At the hearing the Tenant stated that he wishes to withdraw his Application to set aside the Notice to End Tenancy for Landlord's Use of Property, and he accepts that the tenancy is ending on the basis of that Notice. I consider this portion of the Tenant's application to be withdrawn.

As there is no need to consider the Tenant's application for more time to apply to dispute a Notice to End Tenancy, I decline to consider his application for more time.

Issue(s) to be Decided

The remaining issues to be decided are whether the rent for the rental unit has been increased in accordance with legislation; whether there is a need for an Order requiring the Landlord to grant access to the rental unit, and whether the Tenant is entitled to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Background and Evidence

The Tenant stated that this tenancy began on November 01, 2004; that prior to June 01, 2010 he was required to pay monthly rent of \$400.00; that sometime near the beginning of June of 2010 he and the Landlord verbally agreed that the rent would increase to \$500.00 per month; that he paid \$500.00 in rent for June; and that he has not paid rent that was due for July of 2010.

The Tenant stated that he has not returned to the rental unit since June 16, 2010 and that he is currently prohibited from returning to the rental unit or communicating with the Landlord by a Court Order. He stated that he wishes to retrieve his property from the rental unit but that the Court Order prohibits him from communicating with the Landlord for the purposes of having his property released to his agent. To facilitate the return of his property he has requested an Order requiring the Landlord to give Mur's Moving and Storage access to his rental unit on August 04, 2010 between the hours of 9:00 a.m. and 5:00 p.m.

Analysis

Based on the evidence provided by the Tenant and in the absence of evidence to the contrary, I find that the Landlord and the Tenant verbally agreed to increase the rent from \$400.00 to \$500.00, effective June 01, 2010.

Section 43(1)(a) of the *Act* stipulates that a landlord may impose a rent increase only up to the amount calculated in accordance with the regulations. The \$100.00 rent increase that became effective on June 01, 2010 far exceeds the amount calculated in accordance with the regulations for 2010, and I therefore find that the Landlord is not entitled to impose a rent increase of that much on the basis of section 43(1)(a) of the *Act*.

Section 43(1)(b) of the *Act* stipulates that a landlord may impose a rent increase only up to the amount ordered by the director pursuant to an application under section 43(3) of the *Act*. There is no evidence that the director authorized the Landlord to increase the rent by \$100.00 and I therefore find that the Landlord is not entitled to impose a rent increase of that much on the basis of section 43(1)(b) of the *Act*.

Section 43(1)(c) of the *Act* stipulates that a landlord may impose a rent increase only up to the amount that is agreed to by the tenant in writing. There is no evidence that the tenant agreed, in writing, to increase the rent by \$100.00 and I therefore find that the Landlord is not entitled to impose a rent increase of that much on the basis of section 43(1)(c) of the *Act*.

Conclusion

As I have determined that the Landlord did not have the authority to increase the rent by

\$100.00 on June 01, 2010, I find that the Tenant may deduct the \$100.00 he paid in excess of the rent that was due for June from his rent that was due on July 01, 2010.

I find that the Tenant's Application for Dispute Resolution has merit and that he is entitled to recover the \$50.00 he paid to file his Application. I find that the Tenant may deduct the \$50.00 filing fee from the rent that was due on July 01, 2010.

On the basis of these calculations, I find that the Tenant is only obligated to pay rent of \$250.00 for July, which he has not yet paid.

In view of the Court Order that prohibits the Tenant from communicating with the Landlord and from returning to the rental unit, and in an attempt to facilitate the orderly end of this tenancy, I hereby Order the Landlord to provide a representative from Mur's Moving and Storage access to the rental unit on August 04, 2010 between the hours of 9:00 a.m. and 5:00 p.m.

The Tenant and the Landlord are hereby advised that the Landlord is only obligated to remain at the rental unit until 9:30 a.m. In the event that the moving company has not arrived by that time, the Landlord is hereby Ordered to post a contact telephone number on the door of the rental unit with a note that advises the moving company that he can be contacted at that number.

The Tenant and the Landlord are hereby advised that the Landlord has the right to remain in the rental unit while the moving company is in the unit but that he is not obligated to remain in the rental unit after he has given the moving company access to the rental unit.

The Tenant is hereby directed to serve the Landlord with a copy of this decision in a manner that complies with section 88 of the *Act*, prior to July 15, 2010. It is the Tenant's responsibility to ensure that he does not breach an existing Court Order when this decision is served upon the Landlord.

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: July 07, 2010.

Dispute Resolution Officer