

DECISION

Dispute Codes DRI

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties .

All testimony was taken under affirmation.

Issues(s) to be Decided

This is an application to dispute 2 additional rent increases.

Background and Evidence

The applicant testified that:

- The rent for this unit was \$250.00 per month
- In 2009 the landlord increased the rent by \$50.00 per month effective April 1.
- In 2010 the landlord again increase the rent, this time a by \$100.00 per month effective June 1, 2010.
- The increase in 2009 exceeds the 3.7% allowed under the Residential Tenancy Act.
- The increase in 2010 exceeds the 3.2% allowed under the Residential Tenancy Act.
- There was never any written agreement from the tenant allowing an additional rent increase.

The applicant is therefore requesting that the rent be rolled back to the amount allowed under the Residential Tenancy Act, and that she be allowed to recover any overpayment.

The respondent testified that:

- He did increase the rent by \$50.00 in 2009 and by a further \$100.00 in 2010 however at the time that he raised the rent he was unaware that he had to apply for an additional rent increase.
- He has since been informed of the requirement to apply for an additional rent increase, and therefore will be doing so.

Analysis

When the landlord gave the rent increase of \$50.00 in 2009, the Residential Tenancy Act limited any increase to 3.7%, and therefore since the rent had been \$250.00, the maximum increase allowed was \$9.25. Therefore as of April 1, 2009 the tenant should have been paying \$259.25 per month instead of \$300.00 per month, and therefore she has overpaid the rent by \$40.75 per month, for 14 months, for a total overpayment of \$570.50.

When the landlord gave the rent increase of \$100.00 in 2010 the Residential Tenancy Act limited any increase to 3.2%, and therefore since the rent should have been \$259.25 per month, the allowable increase was only \$8.30, bringing their new rent as of June 1, 2010 to \$267.55. Therefore since the tenant has paid \$400.00 per month as of June 1, 2010, she has overpaid the rent by \$132.45 per month, for two months, for a total overpayment of \$264.90.

Therefore the total amount of rent overpayment from the two rent increases equals \$570.50 + \$264.90 for a total of \$835.40.

Conclusion

I hereby order that the present rent for this rental unit as of June 1, 2010, is \$267.55 per month.

I further order that the tenant may recover the \$835.40 overpayment of rent as follows:

August 2010 rent	\$267.55
October 2010 rent	\$267.55
A portion of November 2010 rent	\$32.75
Total recovered	\$835.40

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 29, 2010.

Dispute Resolution Officer