

Decision

Dispute Codes: DRI, MNDC, FF

Introduction

This hearing dealt with an application by the tenant to dispute an additional rent increase; to seek a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement; and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

There is no written tenancy agreement in place for this month-to-month tenancy which began on May 15, 2007 and ended January 15, 2010. The dispute arises principally out of an increase in rent from \$600.00 to \$850.00 which took effect from September 1, 2009. The tenant seeks reimbursement of the amount alleged to have been overpaid for the period from September 1 to December 31, 2009.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute including, but not limited to, the estimated cost of various utilities in January 2010, and undertook to achieve a resolution.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Part 3 of the Act addresses **What Rent Increases Are Allowed**, and includes the following sections:

Section 40: **Meaning of “rent increase”**

Section 41: **Rent Increases**

Section 42: **Timing and notice of rent increases**

Section 43: **Amount of rent increase**

Part 4 of the Regulation also addresses **Rent Increases**, and includes the following sections:

Section 22: **Annual rent increase**

Section 23: **Additional rent increase**

Pursuant to the legislation, the amount of a rent increase that took effect in 2009 is limited to 3.7%. In the circumstances of this dispute, therefore, the allowable amount of rent increase is \$22.20 ($\$600.00 \times 3.7\%$), which brings the monthly rent payable to \$622.20.

The actual rent paid is over and above the allowable amount by \$227.80 ($\$850.00 - \622.20).

The total amount of overpayment for the four (4) month period from September to December 2009 is therefore \$911.20 ($4 \times \227.80).

As the tenant has succeeded in this application, I find she is also entitled to recovery of the \$50.00 filing fee. The total amount owed to the tenant is therefore \$961.20 ($\$911.20 + \50.00).

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution, as set out below.

The parties agreed that the amount owed to the tenant, as above, will be offset by money owed to the landlord, which is comprised of a combination of unpaid rent for the period January 1 – 15, 2010 in the amount of \$311.10 ($\$622.20 \div 2$), and unpaid gas utilities for half of January 2010 in the estimated amount of \$111.50, plus unpaid water / power / garbage for half of January 2010 in the estimated amount of \$60.00. The total amount of “offset” agreed to totals **\$482.60**.

In the result, the amount owed to the tenant totals **\$478.60** ($\$961.20 - \482.60). The specific agreement reached between the parties is as follows:

- that the landlord will FORTHWITH reimburse the tenant in the amount of **\$478.60**, as calculated above, and that a **monetary order** will be issued in favour of the tenant to that effect.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$478.60**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: October 7, 2010

Dispute Resolution Officer