



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by hand on July 16, 2010, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a dispute of additional rent increase.

Background and Evidence

The applicant testified that:

- The tenancy began on April 1, 2009 with rent payable of \$1300.00 per month.
- The landlord has never served them with a notice the rent increase in the proper form.
- On the shelter information provided by the landlord to the Ministry of Housing and Social Development, the landlord stated that as of June 2010 the rent would be raised to \$1450.00 per month.

The applicant is therefore requesting that this illegal rent increase be denied and that their rent remains at \$1300.00 per month.

Analysis

The landlord must comply with the requirements of the Residential Tenancy Act if the landlord wants to raise the rent and in this case he has failed to do so.

The Residential Tenancy Act states:

Rent increases

41 A landlord must not increase rent except in accordance with this Part.

Timing and notice of rent increases

42 (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:

(a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;

(b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.

(2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.

(3) A notice of a rent increase must be in the approved form.

(4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

Amount of rent increase

43 (1) A landlord may impose a rent increase only up to the amount

- (a) calculated in accordance with the regulations,
- (b) ordered by the director on an application under subsection (3), or
- (c) agreed to by the tenant in writing.

In this case the landlord has failed to give the tenants three months notice to raise the rent, has not given a notice a rent increase in the approved form, and has an imposing a rent increase that exceeds the amount allowed under the Residential Tenancy Regulations.

Conclusion

Since the landlords rent increase does not comply with the requirements of the Residential Tenancy Act or the Residential Tenancy Regulations, the \$150.00 increase is not allowed and rent for this rental unit remains at \$1300.00.

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: December 02, 2010.

Dispute Resolution Officer