

DECISION

Dispute Codes DRI, MNDC, OLC, ERP, FF, DRI, CNR

Introduction

This hearing dealt with two applications from the tenant pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make emergency repairs to the unit pursuant to section 33;
- an order regarding a disputed additional rent increase pursuant to section 43, and
- authorization to recover her filing fees for these applications from the landlord pursuant to section 72.

The tenant attended both hearings. The landlord was represented by her lawyer at the November 23, 2010 teleconference hearing. The tenant testified that she sent her application for dispute resolution by registered mail and by hand on October 29, 2010. I am satisfied that the tenant served this application in accordance with the *Act*.

As per my Adjournment Decision of November 23, 2010, I granted the request of the landlord's lawyer for an adjournment to enable the landlord to attend the hearing, as she was out of the country. In granting this adjournment request, I directed the landlord to take the following action:

1. *The landlord is to provide the tenant with a copy of the residential tenancy agreement to both the tenant and to the Residential Tenancy Branch prior to the reconvening of this dispute resolution hearing.*
2. *The landlord is to ensure that someone inspects and, if necessary, cleans the ventilation system in the tenant's rental premises, in response to the tenant's claim that emergency repairs are necessary as a result of a dead rat in the ventilation system.*

When this hearing was reconvened on December 21, 2010, both parties attended. They agreed that the landlord had complied with the above- noted directions. As such, the tenant's application for emergency repairs and an order to the landlord had been addressed before the December 21, 2010 teleconference hearing.

By December 21, 2010, the tenant had submitted another application for dispute resolution combined with the tenant's initial application. The landlord confirmed that the tenant handed her this new application for dispute resolution on December 14, 2010. I am satisfied that the tenant's second application was served in accordance with the *Act*.

The tenant paid the \$700.00 amount requested in the landlord's December 6, 2010 10 Day Notice to End Tenancy for Unpaid Rent. Consequently, the parties agreed that there was no need for the tenant to continue with her application to cancel that Notice. The tenant withdrew her application to cancel the 10 Day Notice to End Tenancy.

Issues(s) to be Decided

What is the correct rent that the tenant should be paying for this tenancy? Is the tenant entitled to a monetary award for loss arising out of this tenancy from her allegation that she has been paying rent in excess of the allowable increases permitted under the *Act*, Regulations and guidelines? Is the tenant entitled to recover her filing fees for her applications from the landlord?

Background and Evidence

This month-to-month tenancy commenced on November 1, 2008, by way of a residential tenancy agreement signed on November 23, 2008. According to the terms of this written agreement, the tenant was to pay \$500.00 per month in rent on the first of each month plus utilities. A written November 11, 2008 addendum signed by the parties on November 23, 2008, described a series of \$100.00 annual increases that were to be applied until November 1, 2011. This addendum maintained that this agreement was in effect rather than the applicable Residential Tenancy Policy Guidelines restricting the annual rent increases that a landlord can obtain.

The tenant asserted that as of November 1, 2009, the landlord had charged rent in excess of the allowable rent increase guidelines. The tenant's first application requested a monetary award of \$978.00 for the period from November 1, 2009 until October 31, 2010. The tenant's second application requested a monetary award of \$230.00 for the additional rent charged after November 1, 2010.

Analysis

Pursuant to section 63 of the *Act*, the Dispute Resolution Officer may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties discussed the issues in dispute, put their minds to compromise and reached an agreement to settle their dispute. The parties agreed:

1. to settle the monetary award requested in both applications by the tenant for \$185.00.
2. that the monthly base rent as of January 1, 2011 will be set at \$535.00 plus \$20.00 for utilities.
3. that the tenant will deduct the \$185.00 amount of the monetary award from the January 1, 2011 monthly rent payment, resulting in a rent payment of \$370.00 for the month of January 2011.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties.

As discussed at the hearing, I make no order regarding the recovery of filing fees for these applications.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, the tenant will pay rent of \$370.00 for the month of January 2011 and \$535.00 plus \$20.00 for utilities commencing on February 1, 2011 until October 1, 2011. All other aspects of the signed residential tenancy agreement remain in place. November 1, 2011 remains the next anniversary date for the purposes of future rent increases. I make no order regarding the recovery of filing fees.

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*.