



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI, FF

Introduction

A substantial amount of 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 registered mail that was mailed on July 14, 2011, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an order cancelling a Notice to End Tenancy for non-payment of rent, a dispute of an additional rent increase, and a request for recovery of the filing fee.

Background and Evidence

The applicant testified that:

- There was a previous B.C. Supreme Court ruling that found that the dispute property is designated as a Manufactured Home Park.
- They lived under a tenancy agreement in the mobile home park and in January 2010 the rent was increased to \$2369.55.
- In October 2010 the park came under new management and underwent a name change and at that time the landlord notified us that our tenancy agreement was going to be replaced with a license to occupy starting January 1, 2011 and that our rent was being increased by 115%.

- We voiced objections to the manager of the park at that time and he indicated that if we did not sign a license to occupy we would be required to move our unit out of the park before January 1, 2011.
- Since we were not able to remove our unit from the park we felt we had no alternative but to sign of the licensed to occupy.
- Since that time several other residents of the park have disputed the rent increase in the licensed occupy and it was found to have been an illegal increase.
- We too believe that it is an illegal rent increase and therefore ask that it be denied and since we have already paid more rent than required under our previous agreement we ask that the Notice to End Tenancy be cancelled.
- We also request recovery of our \$50 filing fee.

Analysis

In a previous decision the dispute resolution officer stated the following:

“In the present case, the landlord purported to raise the rent through the introduction of a new form of agreement to take the place of the pre-existing tenancy agreements. Some of the tenants signed the new agreements believing that they did not have a choice and others refused to sign the new agreements. The fact that some of the tenants signed the new agreements does not make the rent increase legal. The Act must be followed when a landlord seeks to raise the rent. If the landlord wants to make a rent increase that is above the annual amount permitted by the regulations, the landlord must file an Application for Dispute Resolution in accordance with Section 36(3).

Conclusion

Based on the above, I hereby order that the rent increase contained in the “Licences to Occupy” is invalid and is hereby set aside. The rent will continue at the rate set forth in the original agreements between the parties.”

It is my finding in this application, that the landlord is again attempting to illegally raise the rent by having the applicants to sign a licensed to occupy which raises the rent to \$5,100.00, however it is my decision that this too is an illegal rent increase as it exceeds the amount allowed under the Manufactured Home Park Tenancy Act, and the notice a rent increase has not been given in the proper form.

Therefore the annual rent remains at \$2369.55, and since the tenants have already paid \$2550.00 for 2011, there is no rent outstanding at this time, and the landlord cannot end the tenancy for non-payment of rent.

Conclusion

I order that the rent increase contained in the licensed to occupy is invalid and is hereby set aside and the annual rent remains at \$2369.55.

I further order that the Notice to End Tenancy served on the tenants for non-payment of rent is an invalid notice and is therefore cancelled.

I further order that the respondent bear the \$50.00 cost of the filing fee that was paid for dispute resolution, and therefore the applicants may make a onetime deduction of \$50.00 from future rent payable to the landlord's.

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: August 10, 2011.

Residential Tenancy Branch