



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI MNDC FF O

Introduction

This hearing dealt with applications by the tenant and the landlord. The tenant applied to dispute a rent increase as well as for monetary compensation. The landlord applied for an order of possession pursuant to the tenancy agreement. The tenant and three agents for the landlord appeared in the teleconference hearing.

I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Did the landlord increase the rent contrary to the Act?
Is the tenant entitled to monetary compensation as claimed?
Is the landlord entitled to an order of possession?

Background and Evidence

The tenant first began occupying the rental unit in 2003. Each tenancy agreement was for a fixed term, and at the end of the term the tenancy was to end and the tenant was to move out. Each year, the landlord and tenant would enter into a new fixed-term tenancy agreement.

From 2003 to 2009, the monthly rent was \$575. New owners took over the building in November 2008. In June 2009 the tenant and the landlord entered into a new tenancy agreement with monthly rent of \$610. In August 2010 the tenant and the landlord entered into a fixed-term tenancy agreement with monthly rent in the amount of \$645. As with all of the previous tenancy agreements, the current agreement indicates that at the end of the fixed term, in this case September 30, 2011, the tenancy ends and the tenant must move out.

On August 4, 2011 the landlord served the tenant with a reminder that her fixed-term tenancy expires on September 30, 2011, and if the tenant wished to renew her lease she must enter into a new tenancy agreement. The landlord indicated that the new monthly rent would be \$700.

The tenant submitted that the landlord has been increasing her rent beyond the permitted amount. The tenant has claimed \$840, representing overpayment of rent in the amount of \$35 per month for 24 months. The tenant stated that in May 2009 she was in the hospital, and was physically unable to move out by June 1, 2009, so she had no choice but to sign the new tenancy agreement for an increased amount of rent. The tenant refused to sign a new tenancy agreement for October 2011 because the landlord sought to increase her rent again.

The landlord stated that he was not aware that the tenant had been in the hospital in May 2009. Each year, after receiving the landlord's notice regarding renewal of the tenancy, the tenant has called the landlord to negotiate her rent. This year, the tenant did not respond to the notice. The landlord has applied for an order of possession pursuant to the end of the fixed-term tenancy. In the hearing, the landlord stated that he would be willing to have the order of possession dated October 31, 2011.

Analysis

I find that the landlord did not raise the rent contrary to the Act. The tenant and the landlord entered into a new tenancy agreement each year, and agreed upon the new rent upon signing each new tenancy agreement.

I find that although the tenant faced difficult circumstances when she signed the tenancy agreement for increased rent in 2009, the tenant did not sign that agreement under duress. I therefore find that the 2009 tenancy agreement was valid. Furthermore, the tenant negotiated the rental amount and signed subsequent tenancy agreement in 2010.

I find that the tenant is not entitled to monetary compensation for overpayment of rent.

The landlord is entitled to an order of possession pursuant to the current fixed-term tenancy agreement.

Conclusion

The tenant's application is dismissed.

I grant the landlord I grant the landlord an order of possession effective October 31, 2011. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As the landlord's application was successful, they are entitled to recovery of their filing fee for the cost of their application.

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: September 13, 2011.

Residential Tenancy Branch