



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing dealt with the landlord's Application for an Additional Rent Increase.

The hearing was conducted via teleconference and was attended by the landlord, the female tenant and her agent.

At the outset of the hearing the tenant's agent raised two preliminary matters:

1. The landlord failed to serve his evidence package to each of the tenants individually. The parties agreed the landlord served the notice of hearing documents to the tenants individually, however he served an evidence package after the original documents had been served. In the second package the landlord testified that he had placed two copies of his evidence in one envelope and served the one envelope via registered mail. The tenant's agent testified the tenants only received one package of evidence.
2. The tenant's agent also raised an issue of information provided to the tenant when she contacted the Residential Tenancy Branch (RTB) for information about what she could do about a rent increase. In the email from the RTB that the tenant submitted into evidence it states: "Additional rent increase applications may not be disputed by tenants". The tenant testified that she took this to mean that she could not even attend the hearing and it was not until this past weekend that she was informed by her agent that this information was incorrect.

As a result of these issues the parties entered into a lengthy discussion as to requesting a dismissal based on inadequate service or an adjournment due to misinformation provided by the RTB. An agreement could not be made on a date to reconvene.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to impose a rent increase in excess of the annual allowable increase, pursuant to Section 43 of the *Residential Tenancy Act (Act)*.

Analysis

Section 89 of the *Act* requires a party who has filed an Application for Dispute Resolution must serve a copy of the application and all evidence that will be relied upon for their case to be served to individual respondents.

As the landlord's testimony that he served each individual with a package in one envelope is disputed by the tenant and the landlord has failed to provide any corroborating evidence to substantiate his testimony, I find the landlord has failed to establish that he has served both tenants with the evidence for his application.

Conclusion

Based on the above, I dismiss the landlord's Application with leave to reapply.

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: October 14, 2011.

Residential Tenancy Branch