



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, OLC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") to dispute an additional rent increase, to obtain the Landlord's compliance with the Act in relation to the rent increase and to recover the filing fee for this application. The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Notice of Rent Increase valid?

Background and Evidence

The tenancy began in 2000. The current monthly rent is \$552.00 plus \$100.00 for an outbuilding. The Landlord served the Tenant with a Notice of Rent Increase (the "Notice") dated November 19, 2011. The Notice indicates that the rent will be increased as of March 1, 2012 from \$552.00 to \$700.00. The Tenant claims that this increase is greater than that allowed by the regulations. The Parties agree that the Landlords discussed the proposed rent increase with the Tenant prior to the Tenant receiving the Notice however, the Tenant states that he consistently disagreed with the increase and did not agree to such an increase in writing. The Landlord states that no application for dispute resolution was made by the Landlord to obtain approval for an increase greater than that allowed by the Regulation. The Tenant has not paid the increased amount of rent.

Analysis

Section 43 of the Act provides as follows:

- (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.
- (2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.
- (3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.
- (4) [Repealed 2006-35-66.]
- (5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.

Section 23 of the Regulation provides as follows:

- (1) In this section, "**inflation rate**" means the 12 month average percent change in the all-items Consumer Price Index for British Columbia ending in the July that is most recently available for the calendar year for which a rent increase takes effect.
- (2) For the purposes of section 43 (1) (a) of the Act [*amount of rent increase*], a landlord may impose a rent increase that is no greater than the percentage amount calculated as follows:

$$\text{percentage amount} = \text{inflation rate} + 2\%$$

Given that the Notice contains a rent increase that is higher than that allowed by the Regulation, that the Landlord has not obtained an order to increase the rent any higher than that allowed by the Regulation and as the Tenant has not agreed in writing to the increase contained in the Notice, I find that the Notice is invalid and I set the Notice aside. The rent remains in the amount of \$552.00. As the Tenant has been successful with the application, I find that the Tenant is entitled to recover the \$50.00 filing fee and I order the Tenant to reduce the next month's rent payable to the Landlord by this amount.

Conclusion

The Notice of Rent Increase is set aside. I order the Tenant to reduce the next month's rent payable by \$50.00.

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: April 25, 2012.

Residential Tenancy Branch