



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- a determination regarding her dispute of an additional rent increase by the landlord pursuant to section 36; and
- authorization to recover her filing fee for this application from the landlord pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to ask questions of one another. The landlord confirmed that the tenant handed him a copy of her dispute resolution hearing package on June 7, 2012, after her first attempt to send this package to him by registered mail had been unsuccessful. I am satisfied that the tenant served the landlord with her hearing package and notice of this hearing in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to a rent increase? If so, what is the allowed amount of the landlord's rent increase and when should that increase take effect? Is the tenant entitled to recover her filing fee for her application from the landlord?

Background and Evidence

The tenant commenced a manufactured home park pad rental on September 1, 2011. At that time, her periodic rental agreement with the landlord established that her monthly pad rental is \$525.00.

The landlord testified that the only document he provided to the tenant was his original March 26, 2012 Notice of Rent Increase – Manufactured Home Site (the Notice), the Notice that prompted the tenant's application for dispute resolution. The tenant testified that she had not received any of the landlord's other written evidence, which I noted was limited to two letters. I disregarded these letters, although I allowed the landlord to give sworn oral testimony regarding their contents.

The landlord maintained that on January 15, 2011, the tenants in this manufactured home park agreed to allow a \$73.00 monthly rent increase. He gave sworn oral testimony that this resulted in a monthly pad rental of \$525.00 to all tenants in this manufactured home park as of July 1, 2011. He said that the tenant who occupied the pad site currently rented to the tenant in this application agreed to this increase in the monthly pad rent to the current \$525.00 as of July 1, 2011. The landlord asserted that this agreement with the tenants in the manufactured home park established July 1, 2011 as the anniversary date for notices of rent increases for this tenancy.

The tenant maintained that the earliest the landlord is entitled to increase her monthly rent is September 1, 2012, the first anniversary of the commencement of her tenancy agreement. She also asserted that the landlord had obtained a 16.6% rent increase from the previous tenant who occupied her pad and was now applying for an additional rent increase of approximately 6%. She claimed that this resulted in a total increase of 22.6% within a 12-month period.

At the hearing, the landlord confirmed that he had not attached copies of “the appropriate tax notices and invoices for other local government levies” to his original Notice as directed in the Detailed Calculation section of the Notice pertaining to Local Government levies. He said that these were not all available at the time he issued the Notice. However, he confirmed that these tax notices and invoices would have been available by the time the tenant applied for dispute resolution regarding the Notice. He confirmed that he had not sent the tenant or the Residential Tenancy Branch a copy of any supporting documentation regarding the Local Government levies he included in his Detailed Calculation that resulted in his application for an additional rent increase beyond that allowed under the *Manufactured Home Park Tenancy Regulation (the Regulation)*.

Analysis

The *Act* provides that a landlord can only obtain one rent increase every 12 months. As set out in the Notice, “the landlord may only increase the rent 12 months after the date that the existing rent was established with the tenant(s) or 12 months after the date of the last legal rent increase for the tenant(s), even if there is a new landlord or a new tenant, by way of an assignment.”

In this case, there is undisputed evidence that the tenant entered into a new tenancy agreement for this pad rental on September 1, 2011. Whether or not the landlord had an agreement with other tenants in this manufactured home park or even the previous tenant for this pad site, I find that the 12-month anniversary for this tenancy is September 1, 2012. This tenant was not a party to any other agreements entered into

by those who live in this manufactured home park. This was a new tenancy that commenced on September 1, 2011 for an agreed monthly rental of \$525.00. When the previous tenant left this pad site, the landlord had a fresh opportunity to seek the rent that the market would bear at that time. This may have resulted in more or less than the \$525.00 that the previous tenant had been paying for this pad site. Although the landlord said it was simpler and led to less problems to charge the same pad rental throughout the park, this was his decision and not one bound by the *Act* when a new tenancy was created. For these reasons, I find that the correct anniversary date for this tenancy is September 1, 2012. Based on the provisions in the *Act* that allow me to correct an inaccurate date on a notice issued by a party, I find that the landlord's March 26, 2012 Notice takes effect on September 1, 2012, the earliest date that his Notice of Rent Increase could take effect.

Turning to the amount of the landlord's requested rent increase, I find that the landlord has not provided supporting documentation with either the original Notice or in opposition to the tenant's application for dispute resolution to substantiate his application for an increase in local government levies and/or public utility fees. The evidence he has provided is his assurance that these levies increased in the amounts claimed. I note that the most significant of these increases was the apparent increase introduction of \$2,100.00 recycling fee during the current year when no such charge was levied the previous year. When increases of this nature are claimed, there is a responsibility on the landlord's behalf to provide some form of documentation to confirm the increases claimed that have resulted in the requested additional rent increase. In the absence of any supporting documentation from the landlord, I limit the amount of the landlord's monthly rent increase to the 4.3% set out in the *Regulation* for this year. This results in a monthly rent increase from \$525.00 to \$547.58 which takes effect on September 1, 2012 for this tenancy.

As the tenant has been successful in this application, I allow her to recover her \$50.00 filing fee from the landlord.

Conclusion

I find that the landlord is not allowed to increase the tenant's monthly pad rental on July 1, 2012, as outlined in his March 26, 2012 Notice of Rent Increase. I find that the effective date of the landlord's March 26, 2012 Notice of Rent Increase is September 1, 2012, the earliest date when the landlord can obtain a rent increase for this tenancy.

I allow the tenant's application that the landlord has not established that he is entitled to an additional rent increase beyond the 4.3% that is allowed under the *Regulation* and the *Act* for this year. I find that the landlord is allowed a rent increase of 4.3% as of

September 1, 2012. I find that the tenant's monthly rent increases from \$525.00 to \$547.58 as of September 1, 2012.

I find that the tenant is allowed to recover her \$50.00 filing fee for her application from the landlord. To implement this monetary award, I order the tenant to reduce her next monthly rental payment 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 *Manufactured Home Park Tenancy Act*.

Dated: June 27, 2012

Residential Tenancy Branch