



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI OLC O FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to dispute a rent increase, to obtain an Order to have the Landlord comply with the Act, regulation, or tenancy agreement, for other reasons, and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenant and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Tenant be awarded compensation for payment of an invalid rent increase?
2. Should the Landlord be ordered to comply with the Act, regulation, or tenancy agreement?

Background and Evidence

The Tenant submitted documentary evidence which included, among other things, copies of: their written statement; photos of the rental building; their December 31, 2012 letter to the Landlord ending their tenancy effective January 31, 2013; Canada Post receipts; and two notices of rent increase.

The parties confirmed they entered into a fixed term tenancy that began on February 1, 2011 which switched to a month to month tenancy after January 31, 2012. Rent was initially payable in the amount of \$800.00 on the first of each month and was raised to

\$810.00 effective February 1, 2012. On January 26, 2011 the Tenant paid \$400.00 as the security deposit. The Tenant has provided 30 days written notice to end his tenancy effective January 31, 2013, and will be vacating the property by that date.

The Tenant stated that he was disputing the 2012 rent increase and wanted to be reimbursed the \$120.00 (12 x \$10.00) he paid because he believes the notice of rent increase was invalid. He advised that he was unhappy because he found out that other tenants in the building were paying less rent than him so he brought his notices of rent increases into the *Residential Tenancy Branch* where he was told the notices were not valid because they were not signed. He argued that because they were not signed they were illegal and the Landlord obtained the additional rent by fraud.

The Tenant confirmed he received the first notice of rent increase near the end of October 2011 when it was placed through his mail slot on his door. He said he started paying the increased amount as required by the notice because he trusted his landlord.

The Landlord confirmed the notice was served to the Tenant on approximately October 20, 2011. He acknowledged that the notice was not signed but that did not make it invalid. He argued that he was of the opinion that they were still valid notices and noted that the Tenant acknowledged receipt of the notice and that he must have accepted the notice because he paid the increased amount up until he made this application.

I asked the Tenant which section of the Act was being breached to which he was not able to respond. He stated that it was a notice and therefore in order to be legal it must be signed. He requested that I provide him with the section of the Act that would determine that. He confirmed that his request to have the Landlord comply with the Act, regulation, or tenancy agreement pertained to the notices of rent increase he had received.

Analysis

I have carefully considered the aforementioned and documentary evidence and on a balance of probabilities I find as follows:

Section 42 of the Act and Part 4 section 22 of the Regulation speak to the requirements of a notice of annual rent increase. I have copied these sections of legislation to the end of this decision.

In this case the evidence supports the Landlord complied with section 42 of the Act by issuing a notice of rent increase in the approved form which: provided 3 months notice

and listed: the Landlord and Tenant's name; that is was their first rent increase; the current rent, the increase amount which was within the legislated amount, and the new rent; the date the new rent was payable; and listed the Landlord's business name in the last name block as instructed on the form.

The legislation does not stipulate that a notice of rent increase must be signed by the Landlord or that the signature be dated. Therefore, I find there to be insufficient evidence to prove the Landlord breached the Act or that the Tenant paid an invalid rent increase. Accordingly, I dismiss the Tenant's claim, in its entirety.

The Tenant has not been successful with their application; therefore, I find he must bear the burden of the cost to file his claim.

Conclusion

I HEREBY DISMISS the Tenant's claim.

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: January 23, 2013

Residential Tenancy Branch

Timing and notice of rent increases

- 42** (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:
- (a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;
 - (b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.
- (2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.
- (3) A notice of a rent increase must be in the approved form.
- (4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

Part 4 — Rent Increases

Annual rent increase

- 22** (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:

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

- (3) and (4) Repealed. [B.C. Reg. 234/2006, s. 17.]

