



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

This is an application to dispute an additional rent increase, and a request for recovery of the \$50.00 filing fee.

A small amount of documentary evidence and written arguments has been submitted by the applicant prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent was served with notice of the hearing by personal service on April 23, 2013; however the respondent did not join the conference call that was set up for the hearing.

It is my finding that the respondent has been properly served with notice of today's hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

Has there been an illegal rent increase, and is the applicant entitled to recover any overpayment resulting from any alleged illegal rent increase?

Background and Evidence

The applicant testified that:

- On March 25, 2008 the landlord served him a notice of rent increase that increased the rent by 10% effective July 1, 2008.
- He was unaware of his rights under the Residential Tenancy Act and therefore did not dispute the notice.
- He also received a second increase of \$50.00 sometime in 2012 however he is not sure of the date, although he believes it was in July of 2012. No notice was given for this second increase
- He is therefore asking that the illegal rent increases be reversed and that any overpayment be returned.

Analysis

It is my finding that there was an illegal rent increase given on March 28, 2008, however it is my decision that I will not order the return of any rent overpayment paid due to the illegal rent increase.

First of all, it's every tenant's responsibility to be aware of their rights and obligations under the Residential Tenancy Act, and therefore the tenant ought to have known at the time that he received the notice of rent increase in 2008, that it was not a legal increase and he should have filed a dispute of the increase at that time.

Subject to the Limitation Act, a claim must not be commenced more than two years from the date the claim was discovered, or the date the party reasonably ought to have known of the right to file such claim. In this case the claim was filed over five years after the date that the party reasonably ought to have known of the right to file such claim.

Further, it is not equitable to delay filing a dispute of the notice for five years, as that is an inexcusable delay.

Secondly although the applicant claims there was a subsequent \$50.00 illegal increase given sometime in the year 2012, the applicant has supplied insufficient evidence to show when this alleged illegal increase was given.

Conclusion

This application is dismissed without 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: July 23, 2013

Residential Tenancy Branch

