



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT International
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI

Introduction

This hearing dealt with the tenant's application pursuant to section 43 of the *Residential Tenancy Act* (the *Act*) for an order regarding a disputed additional rent increase. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord confirmed that the tenant handed one of the landlord's representatives a copy of the tenant's dispute resolution hearing package on July 17, 2013. Both parties confirmed that they had received copies of one another's written evidence package. I am satisfied that the parties have served the above documents to one another in accordance with the *Act*.

Issues(s) to be Decided

Has the landlord issued a rent increase in excess of the amount allowed under Part 3 of the *Act*?

Background and Evidence

This tenancy commenced as a six-month fixed term tenancy on September 1, 2010. After the initial term, the tenancy continued as a periodic tenancy. Monthly rent was initially set at \$875.00, payable in advance on the first of each month. The landlord has submitted annual rent increases after providing the tenant with three month's notification. The current monthly rent is \$923.61. On May 13, 2013, the landlord issued a Notice of Rent Increase on a standard Residential Tenancy Branch form, in which the landlord notified the tenant that her monthly rent would be increasing by \$35.47 to \$969.08 as of September 1, 2013, plus parking.

The tenant applied to dispute an additional rent increase. In her written evidence, the tenant maintained that her monthly rent as of September 1, 2013 will be significantly higher than other similar rental units in her vicinity. She requested "upgrades" in some of the amenities that are in her rental unit to bring her accommodations into line with the monthly rent she is paying. In her written evidence, she asked for an order requiring the landlord to install a new soaker tub, a new kitchen sink faucet and new kitchen flooring.

The landlord said that the landlord would be willing to consider a written request for repairs to any items that are damaged and require repair. However, she noted that she was only empowered to address the dispute identified in the tenant's application for dispute resolution, the tenant's dispute of what the tenant claimed was an additional rent increase. The landlord provided sworn testimony and written evidence that the landlord has not issued a rent increase in excess of the annual amounts allowed under the *Act* and the *Regulations*. She maintained that the tenant had no right to apply for dispute resolution regarding the landlord's rent increase.

At the hearing, the tenant said that she believed the landlord was only allowed to increase monthly rent by 2% per year. I advised her that the allowable rent increase as per the *Regulations* for 2013 is 3.8 %. The tenant confirmed that the landlord's Notice of Rent Increase was served to her more than three months before the rent is to be increased. She did not dispute that the landlord's monthly rent increase to be imposed on September 1, 2013 is within the 3.8 % allowed under Part 3 of the *Act* and the *Regulations*. She said that her true interest was in obtaining an order for upgrades to her rental unit as she believed that the landlord was required to refurbish her rental unit to reflect the rent she is paying. She did not maintain that any of the upgrades she was seeking require repair. Rather, she said that these items have not been refurbished for some time and should be upgraded or replaced.

Analysis

Part 3 of the *Act* outlines the provisions whereby a landlord can issue an annual rent increase. The following sections of the *Act* are relevant to the tenant's application:

Part 3 ♦ What Rent Increases Are Allowed...

Rent increases

41 *A landlord must not increase rent except in accordance with this Part.*

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....

Amount of rent increase

43 *(1) A landlord may impose a rent increase only up to the amount*

(a) calculated in accordance with the regulations,...

(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.

In this case, there is no dispute as to the landlord's provision of the Notice of Rent Increase on the prescribed RTB forms and in accordance with the time frames outlined above. As I find that the landlord's rent increase falls within the *Regulations* establishing 3.8% as the maximum rent increase the landlord could obtain without seeking authorization to impose an additional rent increase, the landlord's rent increase complies with Part 3 of the Act. As such, I find that section 43(2) of the *Act* prevents the tenant from making an application to dispute the landlord's rent increase. As the tenant had no legal authority to make her application to dispute this rent increase, I dismiss her application without leave to reapply.

Conclusion

I dismiss the tenant's application 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: August 23, 2013

Residential Tenancy Branch

