



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNR

Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel a 10 Day Notice to End Tenancy for unpaid rent and to dispute an additional rent increase.

The tenant and landlord attended the conference call hearing and gave sworn testimony. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing.

At the outset of the hearing the parties agree that the tenant has paid the outstanding rent and the parties agree that the landlord can withdraw the 10 Day Notice to End Tenancy.

Issue(s) to be Decided

Is the tenant entitled to dispute the additional rent increase?

Background and Evidence

The tenant submits that this tenancy started 17 years ago and rent was \$700.00 per month. The landlord wanted to increase the rent by \$200.00. The landlord served the tenant with a letter to increase the rent. A copy of this letter has been provided in

evidence dated June 22, 2013. In this letter the landlord informs the tenant that the rent will be increased from September 01, 2013 by \$200.00 taking the rent to \$900.00. The tenant testifies that the landlord wanted to make another rent increase in January, 2014 of \$80.00 bringing the rent to \$980.00 per month.

The tenant testifies that she agreed to pay \$100.00 extra each month and agrees to continue to do so. However, the landlord wants to increase the rent by an amount much higher than allowed under the Residential Tenancy Act (Act).

The landlord testifies that the unit is below market value and the duplex next door gets a higher rent as do other units in the area. The landlord has provided some rental adverts showing comparisons of units for rent at a higher rent.

Analysis

Having reviewed the documentary evidence before me I find the landlord has not issued the tenant with a rent increase on an approved form pursuant to s. 42(3) of the *Act*. Consequently the landlord is in breach of section 42(3) of the *Act*. The landlord may not impose a rent increase that is higher than the amount allowed for 2013 which in this case is 3.8 percent of the rent.

Section 43 of the *Act* states:

43 (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.

In accordance with section 43(3) of the *Act* the landlord may file an application to request the director's approval of a rent increase that is greater than the amount allowed under the *Act*.

Conclusion

Consequently the tenant's application is upheld. The landlord may increase the rent by \$100.00 as agreed in writing by the tenant.

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: November 20, 2013

Residential Tenancy Branch

