



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, FF

Introduction

This hearing dealt with a tenant's application to dispute a rent increase. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

Did the landlord attempt to increase the rent in a manner that is non-compliant with the Act?

Background and Evidence

The tenancy commenced September 1, 2011 and, pursuant to the tenancy agreement, the rent was set at \$575.00 due on the 1st day of every month. On March 1, 2013 the landlord's agent issued a Notice of Rent Increase to increase the rent by 3.8% to \$596.85 effective July 1, 2013 (referred to as the 1st Notice).

On May 15, 2013 the parties participated in a dispute resolution hearing. During that hearing, the parties agreed that starting June 1, 2013 the monthly rent would be reduced to \$555.00 to reflect loss of use of services and facilities (pool, sauna and exercise facilities) until such time the services and facilities are restored; along with a retroactive abatement of \$20.00 for the months of March, April and May 2013.

Both parties provided consistent testimony that the tenants did not pay and the landlord did not require the tenants to pay the rent increase indicated on the 1st Notice after the hearing.

On August 13, 2013 the landlord issued a Notice of Rent Increase to increase the rent from \$555.00 to \$576.09 (an increase of 3.8%) starting December 1, 2013 (referred to as the 2nd Notice).

The tenants filed this Application to dispute the 2nd Notice on the basis:

1. The landlord has attempted to increase the rent twice during a 12 month period;
2. The rent was just reduced so the landlord should have to wait a year before attempting to increase the rent.
3. The maximum rent increase is 2.0% according to the Residential Tenancy Branch website.

I informed the tenants that the permissible rent increase of 2.0% that appears on the Branch's website is for rent increases that come into effect in 2014 and that the permissible rent increase for 2013 is 3.8%.

The landlord submitted that the landlord considered the 1st Notice invalid since the monthly rent was reduced so a 2nd Notice was issued to reflect the reduced rent. The landlord acknowledged that the tenants were not provided a written letter explaining the issuance of the 2nd Notice but claims a conversation was had with the tenants whereby the tenants were told they did not have to pay the increase indicated on the 1st Notice.

Analysis

Where a landlord wishes to increase the rent the landlord must do so in a manner that complies with sections 40 through 43 of the Act. Section 42 deals with the timing of rent increases. It provides:

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.

In the circumstances before me, I find the 1st Notice was invalidated because the amounts appearing on the 1st Notice became inaccurate with the rent reduction authorized at the previous dispute resolution proceeding. Further, the tenants never paid and were not required by the landlord to pay the rent increase indicated on the 1st Notice after the previous dispute resolution hearing. Therefore, I find the rent had not been increased prior to issuance of the 2nd Notice and the landlord did not violate section 42 of the Act.

I have reviewed the previous dispute resolution decision, which reflects several terms of a settlement agreement reached by the parties, and I find that there is no term that indicates the landlord would have to wait a certain amount of time before increasing the rent. Therefore, I reject the tenant's position that the landlord had to wait at least a year after the rent reduction was given in order to increase the rent.

Since the landlord gave the tenants a Notice of Rent Increase in the approved form, with at least three months of advance notice, and did not increase the rent by more than 3.8% of the reduced rent; and, having found the 1st Notice was invalidated, I find the landlord's 2nd Notice is compliant with the Act. Therefore, I find the tenants obligated to pay \$576.09 for rent starting December 1, 2013.

In light of the above, the tenants' Application for Dispute Resolution is dismissed.

Conclusion

The tenant's application has been dismissed. The tenants are required to pay rent of \$576.09 starting December 1, 2013.

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: December 06, 2013

Residential Tenancy Branch

