



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Madison Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ARI

Introduction

This hearing was scheduled in response to the Landlord's Application for Additional Rent Increase, pursuant to section 43(3) of the *Residential Tenancy Act (Act)*.

One of the Landlords stated that the Application for Additional Rent Increase and the Notice of Hearing were personally served to each Respondent sometime in early December of 2013. Each Respondent acknowledged receiving those documents in either late November or early December of 2013.

Issue(s) to be Decided

Is the Landlord entitled to increase the rent in an amount that is greater than the annual amount prescribed by section 22 of the Residential Tenancy Regulation and, if so, how much of an increase should be authorized?

Background and Evidence

One of the Landlords stated that the Landlord submitted 63 pages of evidence to the Residential Tenancy Branch on March 17, 2013 and that a copy of that evidence was personally served to each Tenant on either March 17, 2013 or March 18, 2013. All of the Respondents acknowledged receiving those documents on March 16, 2013 or March 17, 2013.

The Landlord was advised that the 63 pages of evidence were not being accepted as evidence for these proceedings.

This decision was based, in part, on rule 3.4 of the Residential Tenancy Branch Rules of Procedure, which stipulates that to the extent possible, the applicant must file copies of all available documents, photographs, video or audio evidence at the same time as the application is filed. As most, or all, of the evidence to support the Landlord's application for a rent increase should have been available at the time the Application for Additional Rent Increase was filed, I find that the Landlord failed to comply with rule 3.4.

This decision was based, in part, on rule 3.5 of the Residential Tenancy Branch Rules of Procedure, which stipulates that copies of any documents, photographs, video or audio evidence that are not available to be filed with the application, but which the applicant intends to rely upon as evidence at the dispute resolution proceeding, must be received by the Residential Tenancy Branch and must be served on the respondent as soon as possible, and at least (5) days before the dispute resolution proceeding as those days are defined the “Definitions” part of the Rules of Procedure. In this case the evidence was not submitted to the Residential Tenancy Branch until 3 days before the hearing and it was not served to the Tenants until 3-4 days before the hearing, which is a clear breach of rule 3.5.

Given the volume of evidence and the nature of the Landlord’s claim, I determined that accepting the late evidence would be entirely unfair to the Tenants, as they have not had a reasonable amount of time to consider and respond to the Landlord’s evidence.

After being advised that the 63 pages of late evidence would not be accepted, the Landlord was given the option of withdrawing the application for a rent increase or proceeding with the hearing today, with the understanding that the 63 pages of evidence would not be considered. One of the Landlords indicated they would like to withdraw the application for a rent increase and proceed with the application at a later date.

Analysis

On the basis of the information provided by one of the Landlords, I find that the Landlord’s application for an additional rent increase has been withdrawn.

Conclusion

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: March 20, 2014

Residential Tenancy Branch

