



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDC

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and a monetary order. The hearing was conducted via teleconference and was attended by both tenants; their advocate and the landlord.

I note that part way through the hearing, as I was explaining the process of applying to the Residential Tenancy Branch for an additional rent increase the landlord hung up and did not return to the call.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to have the landlord comply with the legislative requirements for a rent increase; to a monetary order for an overpayment of rent due to a disallowed rent increase, pursuant to Sections 43, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenants submit the tenancy began on November 1, 2011 as a month to month tenancy for the monthly rent of \$850.00 due on the 31st of each month with a security deposit of \$425.00.

The tenants confirmed they have not had a rent increase since the start of the tenancy. The tenants submitted into evidence page 2 of a Notice of Rent Increase they received from the landlord dated November 30, 2013 indicating that their rent would increase from \$850.00 to \$900.00 effective March 1, 2014. This increase represents 5.5% of the tenant's initial rent.

The tenants submit that they have been paying the additional rent increase under the threat of being evicted for failing to pay the increase. The tenants confirm they have paid the rent increase for March, April, May and June 2014 for a total of \$200.00 extra rent. The landlord submits that he was only warning the tenants that if they failed to pay rent he would end the tenancy.

The landlord submits that he had to raise the rent to pay for additional operating costs due to infrastructure updates required by the local water system and the costs that the landlord will incur as a result.

Analysis

Section 43(1) of the *Act* states a landlord may impose a rent increase only up to the amount calculated in accordance with the regulations; ordered by an arbitrator; or agreed to by the tenant in writing. Section 43(5) states that if a landlord collects a rent increase that does not comply, the tenant may deduct the increase from rent or otherwise recover the increase.

Section 22 of the Residential Tenancy Regulation states a landlord may impose a rent increase that is no greater than the percentage amount calculated as the inflation rate plus 2%. Section 23 of the Regulation states a landlord may apply for approval from an Arbitrator of the Residential Tenancy Branch of an additional rent increase for a number of reasons including, but not limited to, the landlord incurring a financial loss from increases in operating expenses.

As the landlord has failed to obtain an order approving an additional rent increase I find the landlord has imposed a rent increase that is not compliant with Section 43 of the *Act* and Section 22 of the Regulation, I order the rent increase identified in the landlord's Notice of Rent Increase issued on November 30, 2013 is cancelled.

Conclusion

I order the tenants are entitled to monetary compensation pursuant to Section 67 in the amount of **\$200.00** comprised of the amount of the rent increased paid since the effective date of the rent increase.

I order the tenants may deduct this amount from a future rent payment pursuant to Section 43(5).

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: June 10, 2014

Residential Tenancy Branch

