



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JDC Property Management Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR
MT, DRI, CNR, FF, O

Introduction

This hearing was convened by way of conference call concerning applications filed by the landlord and by the tenant. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities. The tenant has applied for more time to make an application to cancel a notice to end tenancy, for an order cancelling a notice to end tenancy for unpaid rent or utilities, disputing an additional rent increase, and to recover the filing fee from the landlord for the cost of the application.

The tenant and an agent for the landlord company attended the hearing, provided evidentiary material, and gave affirmed testimony. However, the tenant did not remain in attendance for the entire hearing, exiting the call about 40 minutes into the hearing. The tenant advised that he had called into the conference call system from his place of employment and had other priorities to attend to. The landlord also had an observer who did not testify, and the observer was not disputed by the tenant.

During the course of the hearing, the parties agreed to end the tenancy on July 31, 2014, and consent to an Order of Possession in favour of the landlord effective that date. Therefore, the tenant's applications for more time to make an application to dispute a notice to end tenancy and for an order cancelling a notice to end tenancy for unpaid rent or utilities are hereby dismissed.

All evidence and testimony provided has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

This issues remaining to be decided are:

- Has the tenant established a rent increase that is contrary to the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on June 1, 2013, expired on May 31, 2014 and then reverted to a month-to-month tenancy, and the tenant still resides in the rental unit. Rent in the amount of \$865.00 per month is payable in advance on the 1st day of each month, which includes an additional occupant fee of \$50.00 per month. On May 28, 2013 the landlord collected a security deposit from the tenant in the amount of \$400.00 which is still held in trust by the landlord.

The landlord's agent further testified that since August, 2013 the landlord has been collecting the additional \$50.00 per month for the tenant having an additional occupant in the rental unit. On November 29, 2013 the landlord received an extra cheque from the tenant in the amount of \$250.00 for August through December. The tenancy agreement, a copy of which has been provided states that: "Subject to clause 13, Additional Occupants, the tenant agrees that for each additional tenant or occupant not named in clause 1 or 2 above, the rent will rent increase by \$50.00 per month, effective from the date of his occupancy. The acceptance by the landlord of any additional occupant does not otherwise change this Agreement or create a new tenancy."

The landlord's agent also testified that the tenant was personally served with a notice of rent increase on February 12, 2014 and a copy has been provided. The notice is dated February 12, 2014 and contains an effective date of June 1, 2014. It states that the current rent of \$850.00, being \$800.00 rent and \$50.00 for an additional occupant, which was effective on June 1, 2013 is increased to \$867.00, being \$817.00 per month plus the \$50.00 rental fee for the additional occupant. The landlord's agent testified that the amount of 2.2% on \$800.00 was used to increase the rent, which amounts to \$17.60. The tenant paid the rental fee for the additional occupant for January to May, 2014 but paid no rent for June or July, 2014. The tenant is in arrears the sum of \$867.00 per month for 2 months which includes the additional occupant fee. The landlord's agent also testified that the tenancy agreement provides for a late fee in the amount of \$25.00, and the landlord requests a monetary order for \$1,784.00 and recovery of the \$50.00 filing fee.

The landlord has also provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which states that the tenant failed to pay rent in the amount of \$1,734.00 that was due on July 1, 2014, and the landlord's agent testified that the amount includes the additional occupant fee.

The tenant testified that the landlord has no compassion for the tenant and additional occupant.

Analysis

The *Residential Tenancy Act* permits a landlord to increase rent by a specific percentage each year, and states that a "rent increase" does not include an increase in rent that is for one or more additional occupants if that term is included in the tenancy agreement. In this case, I am satisfied that the tenancy agreement provides for an additional occupant rental fee of \$50.00 per month which is in accordance with the *Act*. I have also reviewed the notice of rent increase and find that it is in the approved form and contains information that is clear and unambiguous to the tenant, and is in an amount that is within the percentage amount permitted by the regulations, and the tenant's application disputing an additional rent increase is hereby dismissed without leave to reapply.

The tenant did not dispute that the rent and the additional occupant fee have not been paid. I am also satisfied that the late fee of \$25.00 per month is a term contained in the tenancy agreement, and the landlord has established a monetary claim as against the tenant for \$1,634.00 for unpaid rent, \$100.00 for the additional occupant rental fee and \$50.00 for late fees. Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of the application.

I leave it to the parties to deal with the security deposit in accordance with the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, the tenant's application for more time to dispute a notice to end tenancy is hereby dismissed as withdrawn.

The tenant's application for an order cancelling a notice to end tenancy is hereby dismissed as withdrawn.

The tenant's application disputing an additional rent increase is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective July 31, 2014 at 1:00 p.m., by consent.

I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,834.00.

These orders are final and binding and may be enforced.

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: July 28, 2014

Residential Tenancy Branch

