



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HAROB HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), via the documentary submissions of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

Preliminary Issue – Invalid Notice to End Tenancy

The Notice submitted by the landlord, dated August 5, 2014, states that the tenant failed to pay rent of \$1124 that was due on August 1, 2014. The tenancy agreement indicates that the monthly rent is \$1100; in their application, the landlord indicated that rent of \$1124 for August was not paid. The landlord submitted with their application and original evidence the first page of a notice of rent increase, but not the second page, which was submitted at a later date. The second page of the rent increase, which did not have tenant information or rental unit address, indicated that the rent was originally established on February 15, 2013, and that the increased rent was to begin on March 1, 2013; however, in this case, the rent was first established on June 1, 2013, as per the written tenancy agreement submitted by the landlord.

Under section 42 of the Act, a landlord may not increase the rent for 12 months following the establishment of the rent or the last rent increase, in this case, June 1, 2013.

In a 10 Day Notice to End Tenancy for Unpaid Rent, a landlord may not claim any fees or amounts greater than the rent owed, aside from utilities, which are dealt with separately. If the landlord claims an amount greater than the rent owed, the notice will be invalid.

In this case, the landlord claimed an amount greater than the rent owed as the landlord was not entitled to increase the rent prior to June 1, 2014, and therefore the notice is invalid.

Conclusion

The application for an order of possession pursuant to the Notice is dismissed.

The application for a monetary order is dismissed with leave to reapply.

Therefore, the landlord may wish to submit a new application through the normal dispute resolution process which includes a participatory hearing to explain any discrepancies in their documentary submissions.

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: August 29, 2014

Residential Tenancy Branch

