



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNDC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution disputing several rent increases and seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant; her agent and an agent for the landlord.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel several notices of rent increase and to a monetary order for an overpayment rent based on invalid rent increases, pursuant to Sections 43, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in August 1999 as a month to month tenancy for the monthly rent of \$400.00 due on the 1st of each month with a security deposit of \$200.00 paid.

The tenant's original claim was for \$1,552.66 as calculated from the date of the first rent increase in 2006 to the time of submission of her claim. The parties agree that since October 1, 2014 the tenant has been paying \$573.00 per month. The tenant seeks to amend her claim by \$22.50 per month for 5 months for a total claim of \$1,665.16.

At the outset of the hearing the landlord's agent clarified that the landlord does not dispute issuing rent increases during the course of this tenancy that did not comply with the annual allowable rent increases since 2006. However, the landlord submits that the tenant should be limited to a claim for compensation to a two year period from the date she submitted her Application for Dispute Resolution.

The landlord's agent submits that if the *Limitation Act* applies to claims under the *Residential Tenancy Act (Act)* then the tenants claim should be limited to 2 years or approximately \$40.00. The landlord's agent stated that if the *Limitation Act* does not apply the landlord does not dispute the total amount of the tenant's claim of \$1,552.66 plus \$22.50 for 5 months since the last rent increase.

I note also here that the parties agree that the current rent should be \$550.59 per month. During the hearing I advised both parties that as they both agree on this amount I will order this to be the amount of rent owed beginning April 1, 2015. Further, I order that as a result of the establishment of this rent amount effective April 1, 2015 the earliest the landlord can impose a new rent increase against this tenant will be April 1, 2016.

Analysis

Section 60 of the *Residential Tenancy Act* stipulates the time period in which an application for dispute must be made as follows:

- (1) If this *Act* does not state a time by which an application for dispute resolution must be made, it must be made *within 2 years* of the date that the tenancy to which the matter relates ends or is assigned.
- (2) Despite the *Limitation Act*, if an application for dispute resolution is not made within the 2 year period, a claim arising under this *Act* or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).
- (3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this *Act*, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.

In 2013, a new *Limitation Act* came into force that explicitly states at section 3(2) that the *Limitation Act* does not apply to claims made under other acts which establish a limitation period. Because the *Residential Tenancy Act* establishes a limitation period, as noted above, the *Limitation Act* does not apply to claims made under these Acts through the Residential Tenancy Branch.

As a result, I find the *Limitation Act* is not applicable in the claim before me. Therefore, I find the tenant is entitled to compensation as claimed for overpayment of rent due to incorrect rent increases since 2006.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,665.16** comprised of overpayments of rent.

This order must be served on the landlord. If the landlord fails to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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 17, 2015

Residential Tenancy Branch

