



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Property Management Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNR, DRI, FF

Introduction

This hearing concerns the tenant's application for cancellation of a notice to end tenancy for unpaid rent / an application to dispute a rent increase that does not comply with an increase permitted by the Regulation / and an application to recover the filing fee. Agents representing both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on May 01, 2003. Monthly rent is due and payable in advance on the first day of each month. At the start of tenancy the monthly rent was \$560.00, and a security deposit of \$280.00 was collected.

Evidence includes several different notices of rent increase which were issued during the years since tenancy began. The most recent notice of rent increase reflects an increase in rent from \$750.00 to \$765.00 effective January 01, 2015. Irrespective of the disagreement between the parties around what the correct amount of rent should currently be, there is no dispute that monthly rent paid since January 01, 2015 has consistently been \$750.00. Presently, rent in this amount has been paid in full until August 31, 2015.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated June 22, 2015. A copy of the notice was submitted in evidence. The amount of rent shown as unpaid when due on June 01, 2015 is \$800.00. The tenant filed an application to dispute the notice on June 24, 2015. While the landlord claims that the \$800.00 shown as overdue on the 10 day notice reflects underpayment of rent over a period of time,

there is no documentary evidence whatsoever before me from the landlord to support such a claim. For his part, the tenant takes the position that the landlord owes him compensation for an overpayment of rent which arises from improperly issued notices of rent increase going back to 2012.

During the hearing the parties undertook to resolve the dispute.

Analysis

Section 63 of the Act addresses the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that rent for each month of the entire calendar year of 2015 is **\$750.00**;
- that effective from **January 01, 2016**, monthly rent is **\$765.00**;
- that another rent increase after the rent increase beginning January 01, 2016, cannot be effective prior to **January 01, 2017**;
- that the **landlord will not file an application** for dispute resolution in which the landlord seeks to recover an alleged underpayment of rent for the period beginning from when tenancy began in 2003 to the present;
- that the **tenant will not file an application** for dispute resolution in which the tenant seeks to recover an alleged overpayment of rent for the period beginning from when tenancy began in 2003 to the present;
- that the dispute related to the **monthly fee assessed for parking** is a matter which is separate and distinct from the dispute before me which concerns rent, and the parties will attempt to resolve between them the dispute related to the fee assessed for parking;

Following from all of the above, the landlord's 10 day notice to end tenancy for unpaid rent is hereby set aside, and the tenancy continues in full force and effect.

As the parties have settled the dispute between them, I hereby **ORDER** that the tenant may recover ½ the \$50.00 filing fee by withholding **\$25.00** from monthly rent which is due and payable on October 01, 2015.

Conclusion

The parties settled the dispute during the hearing.

The landlord's 10 day notice to end tenancy is hereby set aside.

The tenancy continues uninterrupted.

The tenant is **ORDERED** that he may withhold **\$25.00** from payment of rent due on October 01, 2015 in order to recover ½ the \$50.00 filing fee.

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 24, 2015

Residential Tenancy Branch

