



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE PHELAN SENIOR CITIZEN'S SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, OLC, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application to dispute an additional rent increase; for an Order for the landlord to comply with the *Residential Tenancy Act* (the *Act*), regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served in person to an agent of the landlords on September 01, 2015.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the tenant entitled to dispute an additional rent increase?
- Is the tenant entitled to an Order for the landlord to comply with the *Act*?

Background and Evidence

The tenant testified that this month to month tenancy started on August 16 or 18, 2014. Rent for this unit was \$492.00 per month and was increased to \$527.00 per month on September 01, 2015. Rent is due on the 1st of each month.

The tenant testified that the landlord has increased his rent above the allowable amount of 2.5 percent for 2015. Rent has been increased by \$35.00 per month instead of \$12.30.

The tenant seeks a decision to be made on whether or not the landlord is entitled to increase the rent over the allowable amount because this is a building operated under B.C. Housing Commission.

The tenant referred to a letter provided in evidence from the landlord which states that subsidized housing where rent is related to the tenant's income, is not subject to rent increase laws and the Residential Tenancy Branch does not have the authority to make decisions on rent increases.

The tenant testified that if the landlord is entitled to charge a \$35.00 rent increase in 2015 then the tenant will pay this amount and has been paying it since September 01, 2015; however, if the landlord is not entitled to charge this amount the tenant seeks to recover the increase paid since September, 2015.

The tenant seeks an Order for the landlord to comply with the *Act* with regard to rent increases.

Analysis

I have carefully considered all the relevant evidence before me, including the sworn testimony of the tenant. I refer the tenant to the Residential Tenancy Regulations part 2 which states:

Exemptions from the Act

- 2** Rental units operated by the following are exempt from the requirements of sections 34 (2), 41, 42 and 43 of the Act [*assignment and subletting, rent increases*] if the rent of the units is related to the tenant's income:

(a) the British Columbia Housing Management Commission;

- (b) the Canada Mortgage and Housing Corporation;
- (c) the City of Vancouver;
- (d) the City of Vancouver Public Housing Corporation;
- (e) Metro Vancouver Housing Corporation;
- (f) the Capital Region Housing Corporation;
- (g) any housing society or non-profit municipal housing corporation that has an agreement regarding the operation of residential property with the following:
 - (i) the government of British Columbia;
 - (ii) the British Columbia Housing Management Commission;
 - (iii) the Canada Mortgage and Housing Corporation.

I am satisfied that the tenant's unit is located in a building subsidized by the British Columbia Housing Management Commission and therefore rental units operated under this commission are exempt from the Act with regard to rent increases.

Consequently, I have no authority to regulate the tenant's rent to the amount prescribed under the Act of 2.5 percent and find the landlord is entitled to increase the tenant's rent to \$527.00 per month. The tenant's application to dispute the rent increase is therefore dismissed.

As the landlords are exempt from the *Act*, regulations or tenancy agreement with regard to the rent increases; I find the tenant's application for an Order for the landlord to comply with the *Act* regarding this matter has no merit and is therefore dismissed.

As the tenant's claim has no merit the tenant must bear the cost of filing his application.

Should the tenant seek advice about rent subsidies for his unit I recommend that the tenant speak to a representative of the landlord.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: November 04, 2015

Residential Tenancy Branch

