



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI

Introduction

This hearing dealt with an application by the tenant to cancel a Notice to End Tenancy for Unpaid Rent and disputing the Notice of Rent Increase dated April 30, 2015 (the Notice).

Both parties participated in the hearing with their submissions, document evidence and testimony during the hearing. The parties confirmed receiving the evidence of the other. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Should the Notice to End dated September 02, 2015 be set aside?
Is the landlord's Notice of Rent Increase dated April 30, 2015 valid?

Background and Evidence

It must be known that this tenancy has been the subject of previous hearings, of which this hearing is the third in 6 months and the second in respect to dispute over the payable rent. None the less, the parties *agree* that prior to the recent issuance of a Notice of Rent Increase of April 30, 2015 the payable monthly rent was \$1140.00.

However, the parties *disagree* as to why the rent is \$1140.00, and each provided their version of events according to their respective understanding of how the rent was established as \$1140.00.

The landlord argues that the tenant's rent reverted to \$1140.00 in accordance with a previous Decision in April 2015, pursuant to the Notice of Rent Increase effective

September 01, 2013; and therefore the tenant has not had a legal rent increase since September 2013, rendering the Notice of Rent Increase dated April 30, 2015 effective August 01, 2015.

The tenant argues that the rent reverted to the rent of \$1140.00 as the stated *current rent* in the Notice of Rent Increase of August 2014, also pursuant to a previous Decision. The tenant argues that any new rent increase can only be effective 12 months after the last effective date of December 1, 2014. Re-stated, the tenant argues the Notice of Rent Increase of April 30, 2015 should not be effective until December 01, 2015.

The tenant did not pay the recent Notice of Rent Increase request as of August 01, 2015, or the increase for September 2015; therefore on September 02, 2015 the landlord issued the tenant a 10 Day Notice to End for Unpaid Rent claiming the tenant owed the intended rent increase of \$57.00 plus \$24.00 owing from September 2013 onward consisting of \$1.00 per month. The tenant disputes the Notice a valid as in their determination; they do not owe the rent increase amount until the landlord provides a valid Notice of Rent Increase effective no sooner than December 01, 2015, or as prescribed by the Act.

Analysis

On preponderance of all the evidence before me I find the following.

In the **April 10, 2015** hearing Decision the tenant applied to allow a reduction in the amount owed of \$750.00. The Decision stated the tenant was owed at least \$750.00 – so the tenant’s application was allowed. Decision goes on to say that, “*the tenant has not applied to dispute the rent increases. I make no finding as to the current monthly rent.*”

The same Decision stated that the last *legal rent increase* was September 01, 2012 – raising the rent to \$1075.00 per month. Although I am not bound by the previous Decision, on preponderance of the document evidence submitted, I find the previous Decision of April 10, 2015 valid.

As a result of all the above;

- I find that the rent increase of September 01, 2013 was not legal as it was based on \$1100.00 rather than \$1075.00 established by the previous year’s legal rent increase. *The tenant testified they took it upon themselves to pay an extra*

\$25.00, thereafter confusing matter between the parties, as to the actual payable rent.

- I further find the rent increase of December 01, 2014 was not legal as it was based on the illegal rent increase of 2013.
- Finally, I find the rent increase for 2015 is not legal as it is based on the illegal rent increases for 2013 and 2014.

I find that prior to the issuance of the Notice of Rent Increase April 30, 2015 the agreed payable rent was \$1140.00 **and that it remains the amount of \$1140.00 as the current rent:** until such time as the landlord provides the tenant a new valid Notice of Rent Increase in accordance with the Act.

I find that On September 02, 2015 the tenant owed neither the claimed sum of rent increases of \$57.00 nor the sum of \$1.00 per month shortfall for 24 months. Therefore, I Order the Notice to End dated September 02, 2015 is cancelled, or set aside. The landlord is at liberty to issue a new Notice of Rent Increase forthwith.

Conclusion

The tenant's application is granted. The landlord's Notice to End for unpaid Rent is **set aside** and is of no effect. The landlord's Notice of Rent Increase dated April 30, 2015 is **set aside** and of no effect.

The tenancy continues at a payable monthly rent of **\$1140.00**.

The landlord is at liberty to issue a new Notice of Rent Increase forthwith.

This Decision is final and binding on both parties.

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 16, 2015

Residential Tenancy Branch

