



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenants to dispute an additional rent increase and to recover the filing fee from the Landlord.

An agent for the company Landlord (the “Landlord”) and the male Tenant appeared for the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenants’ Application and both parties confirmed receipt of each other’s documentary evidence provided prior to the hearing.

The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the evidence provided.

Issue(s) to be Decided

Has the Landlord imposed an illegal rent increase?

Background and Evidence

The parties agreed that this tenancy started in 2009 and is currently in a month to month term. The parties were unsure whether there was a written tenancy agreement in place or on the issue of whether the Tenant had paid a security deposit at the start of the tenancy.

The Tenant explained that his rent is \$1,150.00 payable on the first day of each month. The Tenant testified that at the end of October 2015, he received a package of documents from the Landlord which was personally served to him. In the package were two Notice of Rent Increase forms (the “Rent Increase Notices”). Both were dated October 29, 2015 and had an effective date for payment of February 1, 2016. The first Rent Increase Notice details a rent increase of 2.9% (from \$1,150.00 to \$1,183.00) and

the second Rent Increase Notice details an additional 8% above the allowable amount (from \$1,150.00 to \$1,278.00).

The Tenant testified that they were first time renters and had signed to consent to the additional rent increase but were pressured into doing so by the Landlords at the threat of eviction. The Tenant testified that it was only until December 2015 did they realise that they did not have to sign to consent to the additional rent increase after consulting with family members which is the reason why they now bring this Application against the Landlord.

The Landlord explained that when the Tenants were served with the two Rent Increase Notices, attached to these were a written agreement which both Tenants signed on November 2, 2015. The Landlord explained that in addition to these documents, the Tenants were provided with two letters, one of which explained the Tenants' rights in respect to the additional rent increase and the other was a cut and paste of the Residential Tenancy Branch guidelines on rent increases. The Landlord testified that she provided this to the Tenants because she wanted them to be informed of their rights in relation to the additional rent increase. The Landlord provided the above documents into evidence for this hearing which contains links to the Residential Tenancy Branch website which were marked as Exhibit B and C in the Landlord's evidence.

The Landlord disputed the Tenant's testimony that the Tenants were pressured into signing the agreement for the additional rent increase. The Landlord submitted that the Tenants had every opportunity to consult with the Residential Tenancy Branch, their family members, or with the Landlord before they signed the agreement which they did not. The Landlord denied that the Tenants were forced, pressured, or harassed into signing the consent forms.

The Landlord clarified the Tenants were provided with the two Rent Increase Notices because if the Tenants did not sign for the additional rent increase then the legal allowable amount of 2.9% would still have applied. In this case, the Landlord would then have applied for arbitration to increase it above this allowable amount through an order. Instead, the Tenants signed the written consent form on November 2, 2015.

The Landlord confirmed that at the time of this hearing, the Tenant had not paid any rent for February and March 2016 and was unsure about whether the Tenant had paid for January 2016 rent. However, she had not yet pursued remedy for nonpayment of rent. The Tenant confirmed that they had paid for January 2016 rent but had withheld all rent for February and March 2016 pending the outcome of this Application.

Analysis

Part 3 of the Act and Policy Guideline 37 to the Act explain the requirements a landlord has to follow in order to affect a legal rent increase. Specifically, Section 43(1) (c) allows a landlord to impose a rent increase up to an amount agreed to by the tenant in writing.

I have examined the parties' oral testimony and documentary evidence and I find that there is insufficient evidence to suggest that the Landlord pressured, forced, or harassed the Tenants into signing the written request to increase their rent above the legal allowable limit. This is because the Tenants were provided with extensive documentation regarding the additional rent increase which was left with them on October 29, 2015 and was signed by them two days later which suggest the Tenants had been given sufficient time. In addition, the Tenants were provided with ample material attached to the Rent Increase Notices by the Landlord which detailed their rights and obligations in relation to rent increases.

I find the Tenants were obligated to know or take reasonable steps to find out what their rights and obligations were and could have easily consulted with their family members or used the links and material provided to them by the Landlords before signing the consent form. Therefore, I find that pursuant to the Act, the Landlord followed the requirements of the Act in obtaining the Tenants' written consent to increase the rent from \$1,150.00 to \$1,278.00.

However, I noted that the Tenants did not provide consent to the Landlord for the **additional** rent increase until November 2, 2015, this being two days after the Tenants were served the Rent Increase Notice which informed of the rent increase to \$1,278.00. Therefore, this Rent Increase Notice was premature. As a result, I find that pursuant to Section 42(4) of the Act, the Rent Increase Notice that sought to increase the rent to \$1,278.00 would have instead been effective on March 1, 2016 and not February 1, 2016 to account for the three months starting in December 2015.

Accordingly, I find that the Rent Increase Notice relating to the **allowable** rent increase of 2.9% to \$1,183.00 is effective for February 1, 2016 as this was served to the Tenants on October 29, 2015 pursuant to the Act.

As the Tenants have not been successful in their Application, I dismiss their request to recover their filing fee from the Landlords. I also caution the Tenants to make rental arrear payments to the Landlord at the earliest opportunity to avoid having the tenancy due to unpaid rent.

Conclusion

The Landlord has not imposed an illegal rent increase. The Tenants must pay rent to the Landlord in the amount of \$1,183.00 for February 2016 and \$1,278.00 for March 2016 thereafter until the rent amount changes pursuant to the Act. The Tenants' Application is dismissed without leave to re-apply.

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 07, 2016

Residential Tenancy Branch