



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OLC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62 (dispute of rent increase);
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 9:45 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The tenant testified that on December 7, 2016 and on December 15, 2016, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the landlord by registered mail. The tenant provided registered mail tracking number(s) in support of service. The tenant testified that the registered mail package was mailed to the address for service provided by the landlord in the tenancy agreement and on a Notice of Rent Increase form. The tenant testified that the landlord does not reside at this address but it is the only address for service provided by the landlord.

Based on the above evidence, I am satisfied that the landlord was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Is the rent increase in compliance with the Act? If not, is the tenant entitled to a monetary order for reimbursement of rent.

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background & Evidence

The tenancy began on June 1, 2004. On August 1, 2016 the parties signed a one year fixed term agreement ending on August 1, 2017. The monthly rent as per this agreement was \$900.00 payable on the 1st day of each month. On August 1, 2016, the same day as the one year fixed term lease was signed, the landlord served the tenant with a notice increasing the rent to \$925.00 effective December 1, 2016.

The tenant claims the landlord threatened to end the tenancy if she did not pay the increase so although she filed an application to dispute the increase, effective December 1, 2016 she paid the increased rent amount. The tenant is requesting re-imbursement of \$25.00 for the month of December 2016 and January 2017.

Analysis

Pursuant to section 42 of the Act, a landlord must not impose a rent increase for at least 12 months after the date on which the tenant's rent was first established under the tenancy agreement.

I find the parties entered into a new tenancy agreement on August 1, 2016 which established a rent of \$900.00. The landlord is not permitted to impose a rent increase for at least 12 months after this date.

The tenants are awarded \$50.00 as re-imbursement for the increased portion of rent paid. The Notice of Rent increase dated August 1, 2016 is hereby cancelled and of no force or effect.

As the tenants were successful in this application, I find that the tenants are entitled to recover the \$100.00 filing fee paid for this application from the landlord for a total monetary award of \$150.00. **I authorize the tenants to deduct the amount of \$150.00 from the rent payable on February 1, 2017.**

The rent remains at \$900.00 per month until it is increased in accordance with the Act.

Conclusion

The Notice of Rent increase dated August 1, 2016 is hereby cancelled and of no force or effect.

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: January 12, 2017

Residential Tenancy Branch

