



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI OLC FF

Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") to dispute an additional rent increase, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and for the recovery of the cost of the filing fee.

The tenants and landlord M.O.O. (the "landlord") appeared at the teleconference hearing and gave affirmed testimony. During the hearing, the hearing process was explained to the parties and the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Neither party raised concerns regarding the service of documentary evidence.

Preliminary and Procedural Matter

At the outset of the hearing, the parties consented to have the rental unit address of "Upper" added for clarity purposes as the rental unit is the upper portion and not the lower portion which is commercial space according to the landlord. Therefore, in accordance with section 64(3) of the Act the tenants' Application was amended to reflect "Upper" in the address of the rental unit.

Issues to be Decided

- Did the landlord impose an additional rent increase in accordance with the Act?
- If not, should the landlord be directed to comply with the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The parties confirmed that a fixed term tenancy began on September 15, 2014 and reverted to a month to month tenancy after September 15, 2015. Monthly rent at the start of the tenancy was \$1,600.00.

The tenants submitted a Notice of Rent Increase form dated April 25, 2017 (the “rent increase form”) in evidence which indicates that the \$1,600.00 monthly rent will increase by \$200.00 to \$1,800.00 effective August 1, 2017.

The tenants filed their Application on April 27, 2017 to dispute the rent increase issued by the landlord.

Analysis

Based on the oral testimony and documentary evidence before me, and on a balance of probabilities, I find the following. Section 43 of the *Act* applies and states:

Amount of rent increase

43 (1) A landlord may impose a rent increase only up to the amount

- (a) calculated in accordance with the regulations,
- (b) ordered by the director on an application under subsection (3), or
- (c) agreed to by the tenant in writing.

The allowable rent increase for residential units for 2017 is 3.7%. The parties confirmed that there has been no previous rent increases until the receipt of the rent increase form disputed by the tenants in the matter before me.

Based on the maximum allowable rent increase of 3.7% for 2017, 3.7% of \$1,600.00 is \$59.20. As a result, I find the amount the landlord increased the tenants’ rent, \$200.00, is a 12.5% rent increase and is **not in accordance with the Act**.

Based on the above and the testimony, I find that the landlord breached section 43 of the *Act* and, as a result, I find the rent increase form **is invalid and of no force or effect**. Therefore, I find the tenants’ rent remains at \$1,600.00 per month until increased in accordance with the *Act*.

As the tenants' application is successful, and pursuant to sections 67 and 72 of the *Act*, I grant the tenants a one-time rent reduction of **\$100.00** from July 2017 rent in full satisfaction of the recovery of the cost of the filing fee.

I caution the landlord to comply with section 43 of the *Act* in the future.

Conclusion

The tenants' application is successful. I find the rent increase imposed by the landlord breached section 43 of the *Act* and as a result it is invalid and is of no force or effect.

The tenants' rent shall remain at \$1,600.00 per month until increased in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: June 1, 2017

Residential Tenancy Branch