



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI, FF

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy, disputing the notice of rent increase, and requesting recovery of the filing fee.

A substantial amount of documentary evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

At the beginning of the conference call, legal counsel for the landlord stated that they are withdrawing the Notice to End Tenancy, and therefore the issue I dealt with today is whether or not to cancel or uphold the notice of rent increase.

Background and Evidence

The parties agree that this tenancy originally began in July of 2014 with a monthly rent of \$1550.00.

The applicant testified that, after her boyfriend moved out, the landlord agreed to reduce the rent to \$1300.00 per month as she could not afford to pay the full \$1550.00 in the contract.

The applicant further testified that, originally there was no fixed length for which the rent would be reduced, however she does agree that, in texts between her and the landlord in April of 2016, it was agreed that the rent would go back up to \$1550.00 per month in July of 2017.

The applicant further testified that in February of 2017 the landlord gave her notice of rent increase, raising the rent from \$1550.00 per month to \$1607.35 per month starting July 1, 2017.

The applicant therefore requests that, since the landlord had agreed that the rent would go back to \$1550.00 per month on July 1, 2017 she asked that the notice of rent increase be disallowed and that rent go back to \$1550.00 on July 1.

The applicant further requests that the landlords be required to pay the \$100.00 filing fee, since the landlords did not withdraw the Notice to End Tenancy until after she applied for dispute resolution.

Counsel for the landlord stated that rent for this unit has always been \$1550.00 per month, however due to the financial hardship experienced by the tenant when her boyfriend moved out, he agreed to temporarily only accept \$1300.00 per month from the tenant however, he originally had believed that the extra would be paid once she could afford it.

Counsel for the landlord further stated that, the landlord is not pursuing any rent above the \$1300.00 that he collected from the tenant during the period which the rent was discounted, however since it is his belief that the rent has always been \$1550.00 per month, based on the contract, they believe that the landlord had the right to raise the rent with the proper three months' notice.

They therefore request that the notice of rent increase be allowed.

The landlords request that the tenant be required to bear the \$100.00 filing fee.

Analysis

It is my finding that the rent for this rental unit has always legally been \$1550.00 per month and that the landlord had agreed to accept a lesser amount for a period of time, however, in doing so, it's my decision that the contract was not changed, and that the actual rent of \$1550.00 per month remained in place.

The tenant herself has stated that she is aware that the rent was to return to \$1550.00 on July 1, 2017 and therefore I think that makes it clear that she too knew that the legal rent had not been reduced, and therefore, although the landlord had abandoned his right to any rent over and above \$1300.00 for temporary period, the legal rent has always been \$1550.00 per month in the contract and therefore any notice of rent increase can legally be based on that amount.

It is my decision therefore, pursuant to section 62 of the Residential Tenancy Act, that I will not disallow the landlords rent increase, and the rent for this unit will increase to \$1607.35 on July 1, 2017.

It is also my decision that the landlord and tenant must split the cost of the filing fee since the landlord did not withdraw the Notice to End Tenancy until after the tenant

applied for dispute resolution, but the tenants request to cancel the rent increase as also been denied.

Conclusion

As stated above the landlord has withdrawn the Notice to End Tenancy and this tenancy will continue.

The landlords requested rent increase has been allowed and I will not be setting it aside.

I have ordered that the parties split the cost of the filing fee and therefore the tenant may make a one-time \$50.00 reduction from future rent payable to the landlords.

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: June 19, 2017

Residential Tenancy Branch