



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RETIRE WEST COMMUNITIES DBA PEACH CLIFF ESTATES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Notice of Rent Increase (the "Notice").

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary issue

At the outset of the hearing, I identified the parties that were on the telephone conference line. Both the tenant and landlord were present. Also on the conference line was a person named HC.

HC stated that they helped the tenant with the paperwork; however, they were not assisting the tenant, or providing evidence at the hearing. The landlord objected to HC remaining in the hearing.

As HC is not assisting or providing evidence, I find there is no reason for HC to be at the hearing as they are not a party to this matter. HC was asked to exit the hearing.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenant testified that the annual rent increase has not been completed in accordance with the Act, as the landlord did not attach copies of the required documents. The tenant stated the documents were made available at the office, which they did pick up a copy.

The tenant testified that the rent increase has not been equally applied to all residence in the park, as they have calculated the proportional rent for some of the sites.

Filed in evidence are copies of eight other notices of rent increases. Filed in evidence is a spreadsheet of the tenant's calculations.

The landlord's agent testified that the annual rent increase has been applied in accordance with the Act, and they are no longer required to attach the documents to the form. The agent stated that the documents were available at the office if a tenant wanted a copy.

The landlord's agent testified that they applied the 3.7% rent increase and the proportional amount of \$17.83 to each site. The landlord stated that they did not want the site rent to be over \$483.00 so they capped the rent increase to a maximum of \$30.00; this was solely for the benefit of the tenants. The landlord stated that the park is 55 plus and they recognized a rent increase of more than \$30.00 would have financial difficulties for some of their tenants.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I find the tenant has not proven a violation of the Act by the landlord.

Under the Act, and the Regulations there is no requirements that the documents be attached to the form.

Although, the form Notice of Rent Increased used by the landlord indicated that the documents must be attached, that does not make the Notice invalid. The Notice was issued in the proper form and the required documents were available to the tenants, such in this case the tenant obtain a copy from the office.

Further, I have reviewed the notices of rent increase provided by the tenant. I find the landlord did use the formula required by the Act, and apply that formula to each of the sites; however, the landlord determined that it was in the best interests of the tenants to cap the rent increase to the amount of \$30.00, as to not create financial hardship to the tenants. This was solely for the benefit of the tenants, and not the landlord.

A rent increase cannot be greater than the Act allows, I find the Act does not stop the landlord from capping the rent increase to an amount lower for the benefits of the tenants.

Based on the above, I dismiss the tenant's application to cancel the Notice of Rent Increase.

Conclusion

The tenant's application to cancel the Notice of Rent Increase is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: October 31, 2017

Residential Tenancy Branch