



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: DRI RR

Introduction

Only the tenant and his representative/assistant attended the hearing and gave sworn or affirmed testimony. They testified they served the landlord with the Application for Dispute Resolution on December 22, 2017 by registered mail and both attended the mail service together. They said the mail was not returned but they were unable to find the tracking number. I find the documents were served pursuant to section 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To order the landlord to comply with the Act;
- b) To find his rent increase did not comply with the Act and to obtain an Order for a rebate of rent to recover any illegal increase in rent pursuant to section 43(5);
- c) To order the landlord to permit free access to his guests pursuant to section 30 and not charge them a fee;
- d) To order the landlord to obey section 29 of the Act and stop illegally entering his unit; and
- e) To order the landlord not to increase his rent for storage.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that there was an increase in his rent that did not comply with the Act, there are illegal charges for guests and storage, illegal entry and that he is entitled to an Order that the landlord comply with the Act and to a rebate for the excess paid?

Background and Evidence

Only the tenant and his assistant/representative attended the hearing and were given opportunity to be heard, to present evidence and make submissions. The tenant said he has been a tenant since August 1, 2016 and rent was \$400 a month. This was a

verbal arrangement and no written lease was signed. He said he has problems with writing and understanding and the landlord has taken advantage of that. In January 2017, the landlord abruptly increased his rent by \$50 to \$450 and he paid it for he did not want to lose his housing. No notice of rent increase was served and he did not agree to the increase. He has been paying \$450 by transfer each month since January 2017 and asks for a refund of \$50 for each month since then ($\$50 \times 14 \text{ months} = \700).

The landlord also threatens to charge for guests who visit him but has not done so yet. However, they illegally enter his suite without warning to look around. The landlord also threatens to charge him \$300 for storage for he has a number of packed boxes in his unit. They are his boxes and they are all within his unit. The tenant requests the landlord be ordered to comply with the Act and allow him to have peaceful enjoyment of his unit. He says he has a heart condition and the stress is very bad for him.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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Analysis:

In section 43, the *Residential Tenancy Act* provides that an increase in rent may only be imposed up to the amount calculated in accordance with the Regulations. The amount for 2018 is 4% and was less for 2017. However section 42 states the landlord must give the tenant a Notice of Rent Increase in the approved form at least three months before the effective date of the increase and any rent increase may not be imposed for at least 12 months after the time the tenant's rent was first established. I find the tenant's rent of \$400 was established on August 1, 2016. I find he has been paying the landlord \$450 by bank transfer according to the evidence of bank statements in file. I find the landlord's arbitrary increase of \$50 a month since January 2017 is illegal. Therefore I find the tenant entitled to a rebate of \$700.

In respect to the tenant's other requests, I find it is illegal for the landlord to charge him for storing boxes in his own room which he is renting for \$400 a month. Any extra charge would be an illegal increase in rent.

Section 29 of the Act restricts the landlord's right to enter the rental unit. Among other provisions, the landlord must give at least 24 hours notice of entry stating the purpose for entry (which must be reasonable) and the date and time which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees. I find it is also illegal for the landlord to charge the tenant for visitors or guests staying for a short term. Section 30 of the Act provides that a landlord must not restrict access for the tenant's guests.

Section 28 of the Act requires the landlord to protect the peaceful enjoyment of the tenant. I find the evidence is that the landlord is infringing on the tenant's right to peaceful enjoyment by his illegal actions.

Conclusion:

I find the tenant entitled to a rent rebate of \$700 for an illegal rent increase of \$50 since January 2017. The filing fee was waived.

I HEREBY ORDER THAT:

- (1) The tenant may recover the \$700 rent overpayment by deducting it off his rent or by enforcing the monetary order enclosed with this decision.**
- (2) The tenant's rent is \$400 per month effective immediately. Any increase in 2018 must be no more than 4% (\$16) and must not be imposed until a Notice of Rent Increase is served at least 3 months prior to the increase.**
- (3) The landlord ceases threatening to charge for the tenant's guests or for storage of items in his own room.**
- (4) The landlord ceases entering his room illegally and conforms to section 29 of the Act with the adequate Notice provisions.**
- (5) The landlord protects the tenant's peaceful enjoyment by ceasing their illegal actions.**

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: February 08, 2018

Residential Tenancy Branch