Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SIR JOHN FRANKLIN/GALATIA REALTY INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, RP

Introduction

This hearing was scheduled to deal with a tenant's application to dispute a rent increase. The tenant subsequent filed a request for Amendment seeking repair orders. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and procedural matters

As for naming of the landlord, the tenant had used the names of two individuals; however, I noted that the tenancy agreement indicates the landlord is the name of the building and that on the subject Notice of Rent Increase the landlord is identified as the building name/corporate owner of the property. The male landlord appearing at the hearing is the building manager and he is assisted by his wife in managerial duties.

I explored service of hearing documents upon each other and the Residential Tenancy Branch. The tenant stated she served her Application for Dispute Resolution and Amendment by registered mail to each named landlord. The male landlord confirmed receipt of the registered mail sent to him; however, the tenant had used an incorrect last name for the female landlord on the tenant's Application for Dispute Resolution and the registered mail package sent to the female landlord. The tenant claimed that the female landlord is her cousin. The landlord denied that to be true and stated she has never used the last name the tenant wrote on her Application for Dispute Resolution and the registered mail sent to her. The landlord pointed me to the Notice of Rent Increase that was the subject of this proceeding to demonstrate the female landlord's last name as seen in her signature is not the same name the tenant used. I was satisfied that the male landlord was sufficiently identified and served with the Tenant's Application for

Dispute Resolution and Amendment. I was unsatisfied the tenant properly named the female landlord or properly served her.

The manager stated the style of cause should reflect the name of the landlord, as it is written on the Notice of Rent Increase, and him as agent for the landlord. The tenant stated she could not comment on amendment of the style of cause in the absence of legal advice. I amended the style of cause to reflect the landlord as being that indicated on the Notice of Rent Increase and the name of the building manager as I found the amendment to be non-prejudicial to the tenant.

As for the tenant's evidence, I noted that the tenant had uploaded several documents and photographs to the Residential Tenancy Branch's portal; however, the tenant stated she emailed her evidence to the landlord. Serving evidence is to be done in a manner that complies with section 88 of the Act and email is not a permissible method of service under section 88. I excluded the tenant's evidence with the exception of the tenancy agreement and the Notice of Rent Increase since the landlord had generated these documents and had access to these documents during the hearing.

The tenant had requested repair orders on the Amendment she served; however, she did not specify the nature of the repairs she seeks. I informed the parties that an applicant has a burden to provide full particulars of the dispute with their Application for Dispute Resolution, or in the Amendment. It is not sufficient to refer to a vague request for repair orders in the Application for Dispute Resolution or Amendment, which the tenant did in this case. The requirement to provide full particulars is in keeping with the principles of natural justice. I informed the parties that I would not deal with unspecified request for repair orders but that I would dismiss this remedy with leave to reapply. I suggested to the tenant that before filing another Application for Dispute Resolution she provide the landlord with a written letter outlining the repairs she seeks so as to provide the landlord the opportunity to make necessary repairs. The tenant claimed to have already done so; whereas, the landlord acknowledged receipt of only one written request for repairs (which was for a faucet) and he replaced the faucet immediately upon receiving that notification. I further suggest to the tenant that any written request for repairs by given to the landlord in a manner that complies with section 88 of the Act.

After approximately 55 minutes of hearing time, as I was rendering my decision orally, the tenant unexpectedly disconnected her end of the telephone connection. I waited on the telephone line several minutes to see if the tenant would call back into the teleconference call but she did not.

Issue(s) to be Decided

Is there a basis to dispute the Notice of Rent Increase issued on November 23, 2017?

Background and Evidence

A co-tenancy started on February 20, 2010 and the rent was set at $825.00 per month. The rent has increased a few times throughout this tenancy and the tenant is currently paying rent of $890.00 per month. On November 23, 2017 the subject Notice of Rent Increase was issued to the tenant. The Notice of Rent Increase provides that the rent will increase from $890.00 to $925.00 starting March 1, 2018.

Upon review of the above described Notice of Rent Increase I noted that it is in the approved form; it was duly signed and completed; and, the rent increase does not exceed that annual allowable amount. Where a tenant receives a Notice of Rent Increase that complies with the rent increase provisions of the Act, the tenant may not dispute the rent increase. Accordingly, I asked the tenant to explain the basis for disputing the Notice of rent Increase since she did not indicate a basis on her Application for Dispute Resolution.

The tenant stated that she does not have copies of the previous Notices of Rent Increase issued since the tenancy started and that she needs them in order to provide them to a tenant advocacy group she is working with. The tenant stated that the landlord was previously ordered by an Arbitrator to provide the documents to the tenant in a previous dispute resolution proceeding. The landlord denied that to be accurate. I asked the tenant to provide me with the file number for the previous hearing but she stated she could not as her emails were being hacked. The landlord was able to provide the file number and I accessed the decision issued for that proceeding (file number referred to on the cover page of this decision). Upon review of that decision, I noted that there was no order for the landlord to provide the tenant with the previous Notices of Rent Increase but that the Arbitrator had dismissed the tenant's request to dispute a rent increase with leave to reapply.

The tenant submitted that without the previous Notices of Rent Increase she is unable to verify that the amount of $890.00 she is currently paying is lawful.

The landlord stated that there had been three previous Notices of Rent Increase issued to the co-tenants and that they had received them since they started paying the increased rent stipulated in those Notices of Rent Increase. The Notice of Rent Incrase

issued before the subject Notice was served in November 2016 for an increase to $890.00 starting March 1, 2017. The landlord stated that he is able to retrieve the older Notices of Rent Increase after the hearing. As a courtesy to the tenant, the landlord was willing to provide the tenant with duplicate copies of previous Notices of Rent Increase. Given the landlord's willingness, I formalized this with an Order that the landlord do so within one week of today's date.

Analysis

Part 3 of the *Residential Tenancy Act* provides for the form and timing requirements for increasing rent as well as provisions concerning the amount of a rent increase. As provided in Part 3, a Notice of Rent Increase that is in the approved form, with at least three months of advance notice, must be given by to a tenant to increase the rent no more than once per year. The amount of the rent increase is limited the annual allowable rent increase unless the landlord has the tenant's written agreement or the authorization of the Director for a greater increase. The annual allowable increase is calculated in accordance with section 22 of the Residential Tenancy Regulations and for 2018 the annual allowable increase is 4.0%.

Section 43(2) of the Act further provides that "a tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part."

The Notice of Rent Increase submitted by the tenant as evidence for my review is in the approved form and was given to the tenant at least three months before the rent increase is set to take effect. The rent increase from $890.00 to $925.00 is less than 4.0% and the increase is not sooner than one year since the last increase. Therefore, I see no basis for the tenant to dispute the subject Notice of Rent Increase and I dismiss her request her application without leave to reapply.

As indicated earlier in this decision, as a courtesy to the tenant, I have ordered the landlord to provide the tenant with copies of the previous Notices of Rent Increase within one week of today's date.

Conclusion

The tenant's application to dispute a rent increase is dismissed without leave.

As a courtesy to the tenant, the landlord is ordered to provide the tenant with copies of the previously issued Notices of Rent Increase within one week of today's date.

The tenant's request for repairs is dismissed with leave to reapply. I have strongly suggested to the tenant that she give the landlord a written list of repairs in manner that complies with section 88 of the Act before filing another Application for Dispute Resolution.

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 07, 2018

Residential Tenancy Branch