



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, OLC, PSF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Manufactured Home Park Tenancy Act*, (the “*Act*”), to dispute a rent increase, to request an order for the Landlord to comply with the *Act*, for an order for the Landlord provide service or facilities as required by the tenancy agreement or the *Act*, and to recover the filing fee for their application. The matter was set for conference call.

Both the Property Manager and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Property manager and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matters

During the hearing, both parties agreed that the Landlord had acknowledged that they had used the wrong percentages for their rental increases for 2016 and 2017. The parties agreed that the Landlord had issued each of their tenant's rent rebate for the tenants' overpayment of rent for 2016 and 2017 and that the current rents due had been amended to reflect the correction.

The Tenant testified that she is withdrawing her claim in regard to disputing the percentage of her rental increases. However, she wished to proceed with her claim to dispute the amount of proportional rent increase she received based on the water bills.

The Tenant also testified that her claim for the Landlord to provide services or facilities and for the Landlord to comply with the Act, were all in relation to the rent increase from the water bills.

I will proceed with this hearing on the Tenant's claim that the Landlord's issued an incorrect proportional amount of rent increases in 2017.

Issues to be Decided

- Was the 2017 proportional amounts of rent increases issued by the Landlord correct?

Background and Evidence

The Tenant testified that the proportional amount of her 2017 rent increase was unfairly applied. The Tenant testified that the park had three underground water main breaks between July 2015 and February 2017 and that those breaks resulted in a spike in water consumption. The Tenant testified that she believes that the excess water consumption by the park during those breaks is the responsibility of the Landlord and should not have been passed off to the Tenants in the form a rent increase.

The Tenant is requesting that the proportional amount of her rent increase for 2017 be reduced as the water main break was the result of poor maintenance in the park and this the responsibility of the Landlord, not the tenants.

The Property Manager testified that there had been a spike in the water use consumption bills and that the increase was passed on to the Tenant in the form of a proportional rent increase. However, the Landlord testified that the increase was due to the city installing a water consumption meter on the park, and not due to a water main break. The Landlord testified that the Park had been on a fixed billing amount from the city but that the city had taken that away and insisted on a consumption-based bill going forward and installed the meter. The Property Manager testified that there had been no water main breaks in the Park.

The Tenant testified that she was unaware that the park had installed a water meter for billing purposes.

Analysis

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

I find that the parties, in this case, offered conflicting verbal testimony regarding the reason for the spike in the water bills for the park. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In this case, I find that the burden of proof falls on the Tenant as this is her application.

I have carefully reviewed the Tenant's testimony and documentary evidence, and I find that the Tenant has failed to provide sufficient evidence to support her claim that the spike in the water bill was due to an underground water main rupture. In the absence of sufficient evidence to prove her claim, I must dismiss the Tenants' application to dispute the proportional amount of rent increases in 2017.

Conclusion

I dismiss the Tenant's application.

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: September 25, 2018

Residential Tenancy Branch