



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNDCT, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) to dispute a rent increase, for monetary compensation, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

Both Tenants and both Landlords were present for the duration of the teleconference hearing. The Landlords confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenants’ evidence. The Tenants confirmed receipt of a copy of the Landlords’ evidence. Neither party brought up any issues regarding service.

The parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

Preliminary Matters

At the hearing one of the Landlords confirmed her name which was different than as stated on the Application for Dispute Resolution. Therefore, the application was amended to name the Landlord as confirmed at the hearing. This amendment was made pursuant to Section 64(3)(c) of the *Act*.

The Tenants stated that they moved out of the rental unit on June 30, 2019 which was confirmed by the Landlords. As such, the Tenants agreed that their claim to dispute a rent increase is no longer relevant. Therefore, this decision will address the monetary claims of the Tenants only.

Issues to be Decided

Are the Tenants entitled to monetary compensation?

Should the Tenants be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

While I have considered the relevant documentary evidence and testimony of both parties, not all details of the submissions are reproduced here.

The parties were in agreement as to the details of the tenancy which were also confirmed by the tenancy agreement submitted into evidence. The tenancy began on June 1, 2017 and ended on June 30, 2019. Monthly rent was initially set at \$1,100.00 and was increased to \$1,200.00 for May and June 2019, which is the subject of this dispute. The Tenants paid a security deposit of \$550.00 at the start of the tenancy.

The Tenants stated that the Landlords informed them by text message that they would be raising the rent by \$100.00 per month beginning in May 2019. They stated that they did not agree to this increase in writing and that it was beyond the allowable amount. The Tenants stated that at the time they were not aware of their rights and paid \$1,200.00 for May and June 2019 as they wanted to maintain their tenancy. However, they stated that after discussing with others they realized that this was not the proper process for increasing rent.

The Landlord stated that they began discussing a rent increase with the Tenants in January 2019 and although they initially discussed \$1,300.00 per month, they agreed upon \$1,200.00. They stated that this was a verbal agreement that was confirmed through text message. The Landlords testified that they had asked by text message if the Tenants were fine with the proposed rent amount and noted that this was confirmed when the Tenants paid the new rent amount of \$1,200.00 for May 2019.

Both parties submitted copies of text message communication into evidence. In a text dated January 28, 2019, the Landlord proposes an increase to \$1,300.00. In a text message dated February 2, 2019 the Landlords asked the Tenants if they are okay with the new rent amount and the Tenants respond that they will discuss it. The Landlords stated that they discussed the rent amount with the Tenants in person and it was

agreed that the rent would be raised to \$1,200.00 instead of the \$1,300.00 that was proposed by text message.

Analysis

Based on the testimony and evidence of both parties, I find as follows:

Regarding rent increase, Section 43(1) of the *Act* states the following:

- 43 (1) A landlord may impose a rent increase only up to the amount
- (a) calculated in accordance with the regulations,
 - (b) ordered by the director on an application under subsection (3), or
 - (c) agreed to by the tenant in writing.

I accept the testimony of both parties that the Landlord raised the rent by \$100.00 and that the Tenants paid the new rent amount of \$1,200.00 for May and June 2019.

Although the Landlords stated that the Tenants agreed to the increase verbally and through text message, I do not find that this meets the requirements of Section 43(1) of the *Act* as noted above. I do not find evidence that the Landlords provided a notice of rent increase to increase the rent by an amount calculated in accordance with the regulations, and I also do not have any evidence before me that a new rent amount was ordered through a previous dispute resolution proceeding.

Regarding whether or not the Tenants agreed in writing, I do not find that they did. Agreeing in writing may include parties entering into a new tenancy agreement with a new rent amount. However, in this matter, I instead find that the Landlords increased the rent by \$100.00 per month without authorization to do so and without written agreement from the Tenants in accordance with the *Act*.

As stated in Section 7 of the *Act*, if a party does not comply with the *Act*, they must compensate the other party for any losses that occur as a result. Section 7 also notes that a party claiming a loss must do what is reasonable to minimize their losses.

As stated, I find that the Landlords were not in compliance with the *Act* when they raised the rent without following the proper process. I also accept the testimony of the Tenants that they were not aware of their rights regarding rent increases and that they applied

for dispute resolution once they did become aware. As such, I find that the Tenants took reasonable steps to minimize potential further losses by filing an Application for Dispute Resolution regarding the rent increase. Therefore, I am satisfied that the Tenants met the burden of proof to establish that they are entitled to compensation for the overpayment of rent for May and June 2019 in the amount of \$200.00.

As the Tenants were successful with their application, pursuant to Section 72 of the *Act*, the Tenants are awarded the recovery of the filing fee in the amount of \$100.00. The Tenants are granted a Monetary Order in the amount of \$300.00.

Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenants a **Monetary Order** in the amount of **\$300.00** as outlined above. The Tenants are provided with this Order in the above terms and the Landlords must be served with this Order as soon as possible. Should the Landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: July 05, 2019

Residential Tenancy Branch