



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP MNDC DRI FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on August 12, 2019. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

Both parties attended the hearing and provided testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The Landlord confirmed receipt of the Tenant's application, Notice of Hearing, and his evidence related to the issue of the most recent rent increase. The Landlord did not take any issue with the service of these documents. The Tenant stated that he served a couple of amendments and more evidence. However, the Landlord stated they did not get all of them. As discussed during the hearing, the only issue I would be addressing at this hearing was that of the rent increase. Since the Landlord confirmed receipt of the Notice of Hearing and all the related evidence pertaining to the rent increase, this is the issue I will focus on. The remainder of the Tenant's evidence and amendments will not be considered. This is further explained below in the preliminary matters section.

The Landlord did not submit any documentary evidence for this hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the Landlord increased rent in accordance with the *Act*. As a result, I exercised my discretion to dismiss all of the grounds the Tenant applied for, with leave to reapply, with the exception of the following claim:

- Did the Landlord increase rent in accordance with the *Act*.

The remainder of the Tenant's application is dismissed, with leave to reapply.

Issues(s) to be Decided

- Is the Tenant entitled to an order regarding a disputed rent increase?

Background and Evidence

The Tenant stated that he has lived at the rental unit for several years now, and his rent has been \$1,600.00 per month for well over a year. The Tenant stated that in January of 2019, the Landlord came to collect rent, and at that time, he told the Tenant verbally that rent was being increased to \$1,700.00. The Tenant stated that he had no choice but to issue a new set of post-dated cheques. The Tenant did not realize this method of increasing rent was illegal until sometime in the months following.

The Tenant is looking to dispute the rent increase from \$1,600.00 to \$1,700.00 which happened as of January 1, 2019. The Tenant stated he has paid the increased amount because he thought he had to. The Tenant stated that he never got a proper notice of rent increase, in writing.

The Landlord stated that they bought the house about 2.5 years ago, and have tried to work with the Tenant in good faith on any issues that have come up. The Landlord stated that they thought the Tenant was going to move out at the end of last year. The Landlords also spoke to the fact that they may be demolishing the house soon.

However, nothing is finalized yet. The Landlord stated that when he went to the house in January 2019, to pick up rent, he and the Tenant made a verbal agreement to increase rent by \$100.00. The Landlord acknowledged not giving the Tenant any written notice.

Analysis

All residential tenancies in the province of British Columbia are governed by the Residential Tenancy Act. The Act controls how rent increases must be done in the province. Here I find the Landlord has breached the Act, for the following reasons.

Section 41 of the *Act* states that a Landlord must not increase rent except in accordance with sections 42 and 43 of the *Act*, which only allow for a rent increase served in the approved form at least 3 months before the effective date of the increase, by an amount calculated in accordance with the regulations.

In this case, the Landlord issued a rent increase verbally, and without any proper notice. It appears the parties do not agree on the amount rent was increased. Although the Landlord stated he had a verbal agreement with the Tenant for the increased rent amount, I find there is insufficient evidence to support that the Tenant agreed to this rent increase.

The Landlord was required to serve the Tenant with a legal notice of rent increase, and give the proper 3 month notice that it would take effect. I find the Landlord failed to give a legal rent increase, in accordance with the Act. As such, the rent increase is null and void. Rent is set at \$1,600.00 per month, the same as it was prior to the illegal rent increase.

I note the Tenant has paid the increased rent amount since January 2019, and I find he is legally entitled to withhold these overpayments from his future rent payment. At this point, the Tenant has paid an extra \$800.00 up to and including this month. The Tenant is owed this amount.

As the Tenant's application was successful, and pursuant to section 72 of the *Act* I grant the Tenant the recovery of the cost of the filing fee in the amount of **\$100.00**.

In total, the Tenant may deduct \$900.00 from a future rent payment, which will be set at \$1,600.00 until it is lawfully increased.

Conclusion

The Tenant is awarded compensation in the amount of \$900.00 in full satisfaction of his overpayment of rent, and recover of the filing fee. I authorize the Tenant to deduct this amount from one month's rent payment.

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: August 12, 2019

Residential Tenancy Branch