



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- dispute of a rent increase pursuant to section 41 of the *Act*; and
- recovery of the filing fee paid for this application from the landlord pursuant to section 72 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Agent A.D.G. attended on behalf of the corporate landlord and is herein referred to as "the landlord".

As both parties were present, service of documents was confirmed. The landlord confirmed receipt of the tenant's Notice of Dispute Resolution Proceeding package and evidence personally served. The landlord confirmed that they did not submit any evidence for this hearing. Based on the undisputed testimonies of the parties, I find that the respondent was served in accordance with the *Act*.

Preliminary Issue – Amendment of Tenant's Application

The agent for the landlord was named instead of the corporate landlord on the tenant's application. Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the tenant's Application to name the corporate landlord as the respondent in this matter.

Issue(s) to be Decided

Is the Notice of Rent Increase issued by the landlord in accordance with the *Act*?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute; and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of the issue currently under dispute at this time:

1. The landlord will make payment to the tenant of \$100.00 by cheque sent by Canada Post mail to reimburse the tenant for the cost of the filing fee. The cheque will be cut no later than November 8, 2019 in order to ensure that it is received by tenant by no later than November 15, 2019.
2. The landlord acknowledged that there was an error on behalf of the landlord resulting in the Notice of Rent Increase form being sent to the tenant in September 2019, not in August 2019 as originally claimed by the landlord.
3. As there was no dispute regarding the amount of the rent increase, only the timing of the increase, both parties agreed that the rent increase will now take effect on January 1, 2020 instead of December 1, 2019.
4. Both parties voluntarily agreed to the terms of this settlement as outlined above and agreed that this settlement constitutes a final and binding resolution of the tenant's Application for Dispute Resolution.

The parties are still bound by all of the rights, responsibilities, terms, conditions and any statutory compensation provisions of the tenancy agreement, the *Act*, and the associated regulations.

Conclusion

The landlord will make payment of \$100.00 by cheque to be received by the tenant by no later than November 15, 2019.

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue to the tenant the attached Monetary Order to be served on the landlord by the tenant ONLY if the landlord fails to pay the tenant per the

terms of the settlement agreement. Should the tenant be required to serve this Order on the landlord, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court. If the landlord only makes a partial payment and not the total amount, this partial payment must be accounted for if the tenant is enforcing the Monetary Order.

The tenant's application for dispute resolution is dismissed in its entirety by way of this settlement agreement.

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: November 04, 2019

Residential Tenancy Branch