



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

DRI FFT OLC

Introduction

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

- a determination regarding their dispute of a rent increase by the landlord pursuant to section 43;
- an order for the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and,
- authorization to recover the filing fee for this application pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses and cross-examine witnesses.

Since both parties attended the hearing and submitted evidence for the hearing, I find that the parties were both sufficiently served pursuant to section 71(2)(c) of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the landlord's rent increase by the landlord pursuant to section 43?

Is the tenant entitled to an order for the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72?

Background and Evidence

The tenant testified that the tenancy started in 2017 with rent of \$650.00. The tenant agreed to increase the rent to \$750.00 in 2017 when his girlfriend moved in. The tenant is not disputing the rent increase from \$650.00 to \$750.00.

The tenant testified that the rental unit is a basement which includes two bedrooms. The tenant testified that he has been using the second bedroom as part of his rental unit since 2017.

The tenant testified that the landlord demanded a rent increase to \$1,100.00 in October 2019. The tenant testified that the landlord provided a tenancy agreement which stated a monthly rent of \$1,100.00 but the tenant did not agree to this rent or sign the tenancy agreement. The tenant testified that he has continued paying \$750.00 per month in rent. The tenant has requested an order cancelling the landlord's rent increase.

The tenant has also testified that he pays his rent to the landlord in cash but the landlord does not provide receipts. The tenant has requested an order that the landlord provide receipts for cash rent payments.

The landlord argued that the tenancy was always only for one bedroom and the \$1,100.00 rent was a new tenancy agreement for the renting of two bedrooms. The landlord testified that the tenant should not have been using the second bedroom. However, the landlord testified that the second bedroom was not locked and the landlord testified that he recently entered the second bedroom and it appeared that the tenant was in fact occupying the second bedroom.

The landlord admitted that he did not provide cash rent receipts to the tenants. The landlord testified that he did not do so because the tenant did not request receipts.

Analysis

I find that the parties have entered a new tenancy agreement. Based on the mutual testimony of both parties, I find that the parties had an oral tenancy agreement from 2017 when the tenant moved into the rental unit. Further, based on the mutual testimony of both parties, I find that the parties have not signed a written agreement to terminate this tenancy agreement as required by section 44 of the *Act*. Furthermore, I find that the purported new tenancy relates to the same rental unit as the existing tenancy. Both parties testified that the tenant has already been occupying the second bedroom. For the forgoing reasons, I find that this is not a new tenancy as claimed by the landlord.

Since this is not a new tenancy, I find that the rent increase rules of the *Act* apply. Section 41 of the *Act* states that a landlord must not impose a rent increase except in accordance with the *Act*. Section 42 of the *Act* states that a landlord must give notice of a rent increase in the approved form. Based on the mutual testimony of both parties, I find that the landlord did not provide notice of the proposed rent increase to the tenant in the approved form. As such, I find

that the landlord's proposed rent increase does not comply with the Act and I grant the tenant's application to cancel the rent increase.

I order that the monthly rent shall remain \$750.00 until the rent is changed in accordance with the *Act*.

Based on the mutual testimony of both parties, I find that the landlord has not been providing receipts for cash rent payments. Section 26(2) of the *Act* states that a landlord must provide a receipt for rent paid in cash. Since the landlord has not been complying with section 26(2) of the *Act*, I hereby order the landlord to provide the tenant with receipts for cash rent payments pursuant to section 62 of the *Act*.

Since the tenant has prevailed in this matter, the tenant's application for reimbursement of the filing fee is granted pursuant to section 72. The tenants may deduct \$100.00 from **ONE** future rent payment to recover the filing fee.

Conclusion

I order that the monthly rent shall remain \$750.00 until the rent is changed in accordance with the *Act*.

I hereby order the landlord to provide the tenant with receipts for cash rent payments pursuant to section 62 of the *Act*.

The tenant's application for reimbursement of the filing fee is granted pursuant to section 72. The tenants may deduct \$100.00 from **ONE** future rent payment to recover the filing fee.

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 12, 2019

Residential Tenancy Branch