



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WV INCOME PROPERTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI FFT

Introduction

This hearing dealt with an application by the tenant pursuant to the Manufactured Home Park Tenancy Act (“the Act”) for the following:

- An order disputing a rent increase pursuant to section 36;
- An order for reimbursement of the filing fee pursuant to section 65.

The hearing was conducted by teleconference. Agent SA attended for the landlord (“the landlord”). Both parties provided affirmed testimony. The hearing process was explained, and both parties had the opportunity to ask questions. Each party had the opportunity to make submissions, present documentary evidence, call witnesses and cross examine the other party.

Neither party raised issues of service. I find the tenant served the landlord in accordance with the Act.

Issue(s) to be Decided

Is the tenant entitled to the following:

- An order disputing a rent increase pursuant to section 36; and
- An order for reimbursement of the filing fee pursuant to section 65.

Background and Evidence

The tenant testified as follows. The tenancy began on June 1, 2017 for monthly rent of \$780.00 payable on the first of the month. On November 1, 2018, the automatic

deductions of rent from the tenant's bank account by the landlord for monthly rent were increased to \$825.08. On November 1, 2019, the automatic deductions of rent from the tenant's bank account by the landlord for monthly rent were increased again, this time to \$840.70.

The tenant denied receiving any required form for Notice of Rent Increase as required under the Act.

The landlord provided affirmed testimony that Notices in the proper form were posted to the tenant's door on July 28, 2018 and July 25, 2019 with respect to each rental increase. The landlord also stated that copies of both were subsequently delivered to the tenant.

Neither party submitted a copy of either Notice of Rent Increase.

The tenant asserted that both rental increases are in contravention of the Act and requested that they be set aside, and the overpayment returned.

The landlord testified that proper Notices were given, the forms complied with the Act, and the tenant's claim should be dismissed.

Analysis

The hearing lasted forty minutes. While I have turned my mind to the documentary evidence and the testimony, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the claims and my findings are set out below.

Section 35 of the Act states as follows:

(3) A notice of a rent increase must be in the approved form.

The tenant has an obligation to establish the tenant's claim on a balance of probabilities which means that something is more likely than not to be true. The Rules of Procedure state in part as follows:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as

claimed. The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. [...]

Because the tenant did not submit a copy of the Notices of Rent Increases, I am unable to determine whether the Notices comply with the Act.

I find that the tenant has failed to meet the burden of proof with respect to the form of the Notices. I therefore do not have the evidence necessary to make a determination of the claim.

I therefore dismiss the tenant's claims with leave to reapply.

Conclusion

I dismiss the tenant's claims with leave to reapply.

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: February 03, 2020

Residential Tenancy Branch