



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Notice of Rent increase that was to take effect on January 1, 2020 and to recover the cost of the filing fee.

Both parties appeared, gave testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing

Issue to be Decided

Should the Notice of Rent increase be cancelled?

Background and Evidence

The tenancy began on November 1, 2007. Rent in the amount of \$800.00 was payable on the first of each month.

The tenant received their first Notice of Rent increase in 2017, with an effective date of March 1, 2018. The tenant did not dispute the notice, when it was received, and has paid the rent of \$850.00 from March 1, 2018.

The tenant submits that they received a current rent increase that was effective January 1, 2020, that is not in compliance with the allowable amount as rent was increased by \$25.00 which the allowable amount was \$22.10. The tenant wishes that notice to be cancelled and the proper amount set.

The tenant submits that they paid the increase of the amount of \$25.00 for the last three months.

The landlord acknowledged that they rounded up the rent increase. The landlord stated that the allowable amount of \$22.10 should still apply.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the tenant received a notice of rent increased that was given in 2017, which was over the allowable amount at that time. This simply may have been a calculation error. However, I find the tenant had the opportunity to dispute the rent increase. This is clearly set out in the instruction on the notice of rent increase. I find the landlord had the right to rely upon the action of the tenant when they did not dispute the rent increase that was given in the year 2017.

I find the tenant was aware of their rights when they were served with the notice of rent increase and did nothing to dispute the amount calculated within a reasonable time as the tenant's application was not filed until January 15, 2020. I find it would be unfair to cancel a notice of rent increase that was given in 2017. Therefore, I confirm rent in the amount of \$850.00 is payable.

I am satisfied that the tenant received a recent Notice of Rent Increase that was to be effective on January 1, 2020, and disputed the amount calculated. I find the amount of \$25.00 the landlord has calculated is over the allowable amount of \$22.10. Therefore, I grant the tenant's application to cancel the Notice of Rent Increase.

I find the tenant has overpaid the rent the rent for January, February, and March 2020, by \$25.00 each month. Therefore, I find the tenant is entitled to recover the overpayment of rent in the amount of \$75.00.

As the tenant was successful with their application, I find the tenant is entitled to recover the cost of the filing fee of \$100.00. I find the tenant has established a total claim of \$175.00. I authorize the tenant a onetime rent reduction from April 2020 rent in the amount of \$175.00 to recover the above amounts in full satisfactory of their application.

The parties agreed that rent will be increased on July 1, 2020 from \$850.00 to \$872.00. The tenant waives their rights to receive a new notice of rent increase. Therefore, I find, commencing July 1, 2020, rent in the amount of \$872.00 is payable to the landlord.

Conclusion

The tenant's application to cancel the Notice of Rent Increase effective January 1, 2020, is granted. The tenant is authorized a onetime rent reduction from April 2020 rent as shown in the above amount.

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: March 16, 2020

Residential Tenancy Branch