



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding First Service Residential Strata Plan BCS2497
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI OLC FFT

Introduction

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

- an order regarding a disputed rent increase pursuant to section 43;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent (the "landlord").

As both parties were represented service was confirmed. The parties each testified that they had been served with the respective materials. Based on the testimonies I find each party was duly served with all pertinent materials in accordance with sections 88 and 89 of the Act.

At the outset of the hearing the parties agreed that the underlying issues for this matter has been resolved. The tenant withdrew all but the portion of their application seeking recovery of their filing fees.

Issue(s) to be Decided

Is the tenant entitled to recover their filing fees from the landlord?

Background and Evidence

The tenant is employed by the corporate landlord and as part of their condition of employment resides in the rental unit at a subsidized rate of \$400.00 payable on the first of each month.

On April 20, 2020 the landlord issued a letter stating that the employment contract has been frustrated and the tenant was no longer eligible for the subsidized rent. The tenant subsequently filed their application for dispute resolution with the Branch on April 28, 2020. The landlord later retracted their letter and reinstated the employment and eligibility for subsidized rent by a second letter dated May 11, 2020.

The tenant acknowledged that the issues of rent increase and seeking an order that the landlord comply was resolved but seeks an order to recover their filing fee as they incurred costs to initiate the present application.

Analysis

Section 72 of the Act allows me to order payment or repayment of a fee for starting a dispute resolution proceeding. Repayment of filing fees is meant to allow parties who are successful at a hearing some measure of recompense.

In the present case I find that this hearing was wholly unnecessary. Neither party was successful at this hearing as there was no longer an issue to be adjudicated. The parties agree that the matter was resolved on May 11, 2020 by the landlord's letter of retraction. The applicant could have withdrawn their application at that time. Instead the applicant continued with their application and occupied a hearing slot for an issue that had already been resolved a month ago. I find the tenant's conduct to be an unreasonable and frivolous use of the limited resources of the branch. I decline to order repayment of the filing fees.

Conclusion

The portion of the application seeking a determination on a rent increase and an order that the landlord comply are withdrawn and dismissed without leave to reapply.

The balance of the application is dismissed without 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 *Residential Tenancy Act*.

Dated: June 8, 2020

Residential Tenancy Branch