



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THIRD ESTATES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR

Introduction

On November 27, 2020, the Tenant applied for a Dispute Resolution proceeding seeking rent reduction pursuant to Section 65 of the *Residential Tenancy Act* (the “Act”).

D.P. attended the hearing as an advocate for the Tenant and he had the Tenant call in to the hearing to provide authorization for him to represent her. She exited the hearing after providing this authorization. B.K. attended the hearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

D.P. could not answer if, how, or when the Landlord was served with the Notice of Hearing package. B.K. confirmed that the Landlord received this package in mid-December. Based on this undisputed testimony, I am satisfied that the Landlord has been served with the Notice of Hearing package.

He was also not sure if, how, or when the Landlord was served with the Tenant’s evidence package. B.K. confirmed that the Landlord received a large evidence package approximately three weeks ago. As service of this evidence complied with the timeframe requirements of Rule 3.14 of the Rules of Procedure, I am satisfied that the Tenant’s evidence has been satisfactorily served on the Landlord. As such, this evidence was accepted and considered when rendering this Decision.

B.K. advised that the Landlord’s evidence was served to the Tenant by hand on or around February 2, 2021, and D.P. confirmed that this evidence was received. As service of this evidence complied with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I am satisfied that the Landlord’s evidence has been satisfactorily served on the Tenant. As such, this evidence was accepted and considered when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a rent reduction?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

B.K. advised that the tenancy started on August 1, 2020, that rent was established at \$1,600.00 per month, and that it was due on the first day of each month. A security deposit of \$800.00 was also paid. A copy of the tenancy agreement was submitted as documentary evidence.

D.P. advised that the Tenant had engaged into a tenancy agreement with the Landlord prior to August 1, 2020. However, when it was brought to his attention that the Tenant noted in her documentation that she was a roommate to another tenant prior to August 2020, he stated that it was his belief that she was not a roommate, but a tenant on this prior tenancy agreement. He could not provide any proof to support that she was not a roommate of this prior tenancy agreement.

On the Application for Dispute Resolution, the Tenant described the dispute as follows:

THEY INCREASED THE RENT FROM \$1050 TO \$1600 MONTH OLD MAN NEVER HAD ANYTHING FIXED FOR 20 YEARS AND IT WAS WATER LEAKING FROM CEILING AND BED BUGS INFECTION AND I HAVE TO SLEEP ON PLASTIC BOXES AND GET RID OF MY SOFA THE FIRST YEAR. PS (NOT MY FIRST LANDGUAGE BAD ENGLISH). I LIVED AT THIS ADDRESS SINCE APRIL 1 2018 AS ROOMMATE WILL OLD MAN OF 87 YEARS OLD NAME TONY SCOTT. JULY 2020 HIS DAUGHTER ANTONIA DECIDED TO MOVE HIM OUT BECAUSE IT WAS TOO DANGEROUS TO STAY HERE. JULY 2020 THE MANAGER...

The compensation that the Tenant was seeking in this Application was in the amount of **\$1,300.00**; however, it was not clear to D.P. how this amount was calculated. It was his belief that this amount being requested was for an illegal rent increase from \$1,050.00 to \$1,600.00, but he could not explain how the particular figure of \$1,300.00 was calculated.

B.K. advised that the Tenant was a roommate of the previous tenant and a Landlord/Tenant relationship was only created when the submitted tenancy agreement was signed between the Landlord and Tenant on August 1, 2020. She provided a copy of the tenancy agreement of the previous tenant to demonstrate that the Tenant was not listed as a tenant, and she was only a roommate of the previous tenant. She testified that the previous tenant gave written notice to end his tenancy effective for July 31, 2020 and that the Landlord then started a tenancy with the Tenant on August 1, 2020. She also stated that the Landlord already provided the Tenant with a rent reduction of \$550.00 per month for the first two months of the tenancy.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

When considering if the Tenant's rent was increased from \$1,050.00 to \$1,600.00, the issue I must consider is why the Tenant believes her rent was \$1,050.00 to begin with. I find it important to note that she indicated in her Application that she moved into the rental unit on April 1, 2018 as a roommate of the existing tenant, who had an established tenancy agreement in place with the Landlord. Policy Guideline # 19 indicates the following regarding roommates:

Disputes between tenants and landlords regarding the issue of subletting may arise when the tenant has allowed a roommate to live with them in the rental unit. The tenant, who has a tenancy agreement with the landlord, remains in the rental unit, and rents out a room or space within the rental unit to a third party. However, unless the tenant is acting as agent on behalf of the landlord, if the tenant remains in the rental unit, the definition of landlord in the *Act* does not support a landlord/tenant relationship between the tenant and the third party. The third party would be considered an occupant/roommate, with no rights or responsibilities under the Residential Tenancy Act.

As the Tenant confirmed in her own documentation, it is clear that she was a roommate of the previous tenant. Therefore, she was not a Tenant of that tenancy, as defined under the *Act*, so she had no rights or responsibilities under the *Act* with the Landlord. Furthermore, the undisputed evidence is that this previous tenancy ended by way of the previous tenant giving notice effective for July 31, 2020.

As she then only became a Tenant, as defined by the *Act*, when she signed a tenancy agreement with the Landlord on August 1, 2020, this is the date that her rights or responsibilities under the *Act* commenced as this is the date when the Landlord/Tenant relationship began. As this the date when the tenancy started, I am satisfied by the undisputed evidence that she signed a tenancy agreement which established that rent was \$1,600.00 per month. Consequently, I dismiss her Application for a rent reduction as her rent was never established at any amount other than the amount she agreed to when she started a tenancy with the Landlord on August 1, 2020.

Conclusion

Based on the above, I dismiss the Tenant's Application for a rent reduction 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: February 19, 2021

Residential Tenancy Branch