



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI, FFT

Introduction

On April 12, 2021, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a Notice to End Tenancy for Unpaid Rent, to dispute a rent increase, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord and the Tenants attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

Preliminary Matters

All parties agreed that the tenancy would be ending on August 31, 2021 and as such, the Landlord withdrew the 10 Day Notice to End Tenancy for Unpaid Rent, dated April 11, 2021 (the “10 Day Notice”). I dismiss the Tenants’ claim to cancel the 10 Day Notice and did not consider the issuance of an Order of Possession to the Landlord.

The Tenants submitted their application and included a request to dispute a rent increase. All parties agreed that the dispute was specifically regarding whether the rent should have increased from \$1,700.00 to \$1,800.00 at the end of the fixed term based on the Tenancy Agreement and the terms in the Addendum.

Issues to be Decided

Should the monthly rent have increased from \$1,700.00 to \$1,800.00 on April 1, 2021?

Should the Tenants be reimbursed for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

Both parties agreed to the following terms of the tenancy:

Although the Tenancy Agreement indicated that the tenancy was a month-to-month tenancy, the parties agreed that it was a one-year, fixed-term tenancy that began on April 1, 2020 and continued as a month-to-month tenancy. As noted in the Tenancy Agreement and the Addendum, the rent was \$1,600.00 for the first six months and \$1,700.00 for the last six months of the fixed term. The Landlord collected and still holds a security deposit in the amount of \$1,000.00.

The Landlord submitted that the Tenants knew that the regular amount of rent for the rental unit was \$1,800.00 and that they were receiving a reduced rent “due to uncertainties in the world”.

The Landlord agreed that the Addendum stated that “normal rent is \$1800 for suite” and acknowledged that the Addendum did not specifically state what the rent would be if the tenancy continued beyond the one-year fixed term. The Landlord submitted text messages between herself and the Tenants before the Tenancy Agreement was signed which indicated that one of the Tenants acknowledged that the rent was being reduced.

The Landlord stated that the Tenants have only paid \$1,700.00 monthly rent from April to August 2021 where they should have paid \$1,800.00 per month.

The Tenants submitted that they signed a Tenancy Agreement and Addendum that specifically stated what the rent would be for one year. The Tenants stated they were not given proper notice of a rent increase for April 1, 2021 and nowhere in the Tenancy Agreement or Addendum did it say when or if the rent would be increased to \$1,800.00.

Analysis

I accept the undisputed testimony from both parties and find that the Tenancy Agreement and Addendum were clear that the Tenants would pay monthly rent of \$1,600.00 from April 2020 to September 2020 and then pay \$1,700.00 from October 2020 to March 2021.

Section 44 (3) of the Act states that, if a tenancy does not end at the end of the fixed term, and if the parties do not enter into a new tenancy agreement, the tenancy automatically continues as a month-to-month tenancy on the same terms.

Residential Tenancy Policy Guideline 37 refers to rent increases: A tenant may agree to, but cannot be required to accept, a rent increase that is greater than the maximum allowable amount unless it is ordered by an arbitrator. If the tenant agrees to an additional rent increase, that agreement must be in writing. The tenant’s written

agreement must clearly set out the agreed rent increase (for example, the percentage increase and the amount in dollars, and the tenant's signed agreement to that increase).

In this case, I find that after the first year of the tenancy, the tenancy continued as a month-to-month tenancy on the same terms. Specifically, that rent would continue at \$1,700.00 a month.

I find that the Addendum did not clearly set out that the Tenants agreed to a rent increase to \$1,800.00 for April 1, 2021, as claimed by the Landlord.

Based on the evidence before me, I find the Tenants paid the appropriate amount of rent, in the amount of \$1,700.00, from April 1, 2021 to August 2021.

I find that the Tenants' Application has merit and that the Tenants are entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00, pursuant to section 72 of the Act.

Conclusion

I confirm that the monthly rent between April 1, 2021 and August 2021 was \$1,700.00.

I grant the Tenants a Monetary Order for the amount of \$100.00, in accordance with section 72 of the Act. In the event that the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: August 16, 2021

Residential Tenancy Branch