



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, MNDCT, DRI, OLC, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on November 15, 2021 (the “Application”). The Tenant applied as follows:

- To suspend or set conditions on the Landlord's right to enter the rental unit
- For compensation for monetary loss or other money owed
- To dispute a rent increase that is above the amount allowed by law
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement
- To recover the filing fee

The Tenant appeared at the hearing with Y.J., an interpreter, and G.L., their husband. The Tenant said at the outset of the hearing that they would call their husband as a witness and therefore I asked that their husband exit the room until required. At the end of the hearing, the Tenant said their husband's testimony is not relevant to the illegal rent increase issue and therefore I did not hear from their husband.

The Landlord appeared at the hearing.

I explained the hearing process to the parties who did not have questions when asked. I told the parties they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

Four additional people were named in the Application as landlords. During the hearing, the parties confirmed the tenancy is between the Landlord and Tenant alone. The

Tenant also confirmed the additional four people should not have been named in the Application and therefore I have removed them from the Application which is reflected in the style of cause.

Pursuant to rule 2.3 of the Rules, I told the Tenant at the outset of the hearing that matters in an application for dispute resolution must be related and the matters raised in the Application are not related. I told the Tenant I would hear one of the issues raised and dismiss the remaining with leave to re-apply. The Tenant asked that I consider the illegal rent increase issue and I have considered this as well as the request to recover the filing fee. The remaining issues are dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Residential Tenancy Act* (the “Act”).

Both parties submitted evidence prior to the hearing. I confirmed service of the hearing package and evidence and no issues arose.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all oral testimony of the parties and the documentary evidence pointed to during the hearing (see rule 7.4 of the Rules). I have only referred to the evidence I find relevant in this decision.

Issues to be Decided

1. Has the Landlord imposed an illegal rent increase?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

Two written tenancy agreements were submitted.

The first tenancy agreement started July 01, 2020 and was a month-to-month tenancy. Rent was \$2,200.00 due on the first day of each month. The Tenant paid a \$1,100.00 security deposit. The agreement was signed by the Landlord and Tenant on June 14, 2020.

The second tenancy agreement started February 01, 2021 and was for a fixed term ending January 31, 2022. In the rent portion of the agreement, \$1,650.00 is crossed out and \$1,750.00 is noted and initialed by both parties. Rent is due on the first day of each

month. The Tenant paid a \$875.00 security deposit. The agreement has an addendum. The agreement was signed by both parties on January 17, 2021.

The parties agreed the first tenancy agreement related to three bedrooms and two washrooms in the basement suite. The parties agreed the second tenancy agreement relates to two bedrooms and one washroom in the basement suite.

The Tenant testified as follows. Rent was originally \$2,200.00. On November 16th, the Tenant stopped using one of the bedrooms in the basement suite and rent changed to \$1,600.00 per month. The Tenant paid \$1,650.00 per month for November and December. In January, rent was increased to \$1,750.00. The Tenant acknowledges they signed the second tenancy agreement and initialled the change in the rent amount from \$1,650.00 to \$1,750.00; however, the Landlord forced the Tenant to sign the second tenancy agreement.

The Landlord disputed the testimony of the Tenant and testified as follows. The Tenant communicated with the Landlord's wife about the rental unit but should have communicated with the Landlord. Rent was never \$1,650.00. On January 17, 2021, when the second tenancy agreement was signed, the parties discussed the rent amount and what was included in rent. The second tenancy agreement originally showed rent as \$1,650.00; however, this was changed to \$1,750.00 after the parties' discussion and prior to the parties signing the agreement. Rent was reduced from the first tenancy agreement to the second tenancy agreement because there were fewer occupants in the rental unit.

In reply, the Tenant testified as follows. The Tenant agreed to the \$1,750.00 rent amount because the Landlord told the Tenant they either had to sign a Mutual Agreement ending the tenancy or agree to the \$1,750.00 rent amount. The Tenant agrees \$1,650.00 was originally written on the second tenancy agreement and that this was changed to \$1,750.00 on the same date the agreement was signed by the parties.

The only documentary evidence the Tenant pointed to in support of their position is a five-page PDF document named *translation_of_inportant_pages.pdf*. The Tenant testified that the grey text messages in this document are from the Landlord's wife. The Tenant submitted that the text messages show that rent would be reduced to \$1,650.00 if their parents moved out of the rental unit.

In relation to being forced to sign the second tenancy agreement, the Tenant played an audio recording; however, the Tenant could not make the recording loud enough to be heard and therefore I am not aware of what the recording includes.

In further reply, the Landlord submitted that the text messages referred to by the Tenant do not show an agreement between the parties that rent would be \$1,650.00. The Landlord again stated that the text messages are with their wife and not them. The Landlord testified that the Tenant signed both tenancy agreements without being forced to and agreed to the rent of \$1,750.00 without being forced to. The Landlord acknowledged they gave the Tenant the option to sign a Mutual Agreement ending the tenancy or the second tenancy agreement and stated that this was because the Tenant no longer wished to pay the \$2,200.00 as set out in the first tenancy agreement and therefore the tenancy had to be ended or a new agreement signed.

Analysis

Part 3 of the *Act* addresses rent increases.

The parties disagree about whether the Landlord increased rent.

Pursuant to rule 6.6 of the Rules, it is the Tenant as applicant who has the onus to prove the claim. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

Based on the two written tenancy agreements, I find the parties agreed to the rent amount of \$2,200.00 on June 14, 2020 and agreed to the reduced rent amount of \$1,750.00 on January 17, 2021. I accept that the rent amount on the second tenancy agreement was changed from \$1,650.00 to \$1,750.00 by agreement of the parties on January 17, 2021, when the tenancy agreement was signed, because the parties initialled the change and there is no date indicating this change was made on a later date.

I do not accept that the parties agreed to rent being \$1,650.00 at any point because this is not supported by the written tenancy agreements.

The Tenant relied on text messages between the Landlord's wife and the Tenant about the rent amount to support their position. The only text messages about the rent amount are dated June 13, 2020 and January 17, 2021. I do not find the June 13, 2020

text messages relevant because they were sent prior to the first tenancy agreement being signed and the final agreement is reflected in the written tenancy agreement, which both parties signed. I do not find the January 17, 2021 text messages relevant because they were sent the day the second tenancy agreement was signed by the parties. If the Tenant did not agree to the rent amount of \$1,750.00, the Tenant should not have signed the second tenancy agreement.

It seems that the actual issue is that the Tenant claims that the Landlord forced them to sign the second tenancy agreement. I do not accept that the Landlord forced the Tenant to sign the second tenancy agreement because the parties disagreed about this and the Tenant did not point to any further evidence to support their position.

I acknowledge that the Landlord agreed they gave the Tenant the option of signing a Mutual Agreement ending the tenancy or the second tenancy agreement. However, I accept the Landlord's explanation that they did this because the Tenant no longer wished to pay \$2,200.00 in rent. I do not find this action by the Landlord to be the equivalent of forcing the Tenant to sign the second tenancy agreement. The Tenant had other options than to sign the second tenancy agreement and could have chosen those other options, such as continuing the first tenancy agreement or ending the first tenancy agreement and moving out.

Given the above, I do not accept that the Landlord increased rent at any point and in fact find the Landlord reduced rent from \$2,200.00 to \$1,750.00. Further, I do not accept that the Landlord forced the Tenant to sign the second tenancy agreement. The Application is dismissed without leave to re-apply.

Conclusion

The Application is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 25, 2022

Residential Tenancy Branch