



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STRATHMORE LODGE APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI-ARI-C

Introduction

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

- an order regarding a disputed additional rent increase of \$2,325.82 for capital expenditures, pursuant to section 43.

The landlord's two agents, "landlord HW" and "landlord NM," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 13 minutes.

This hearing began at 9:30 a.m. and ended at 9:43 a.m. The landlord's two agents, who said they were calling from the same telephone line, left the hearing from 9:34 a.m. to 9:36 a.m., claiming that their phone disconnected. I informed them that I did not discuss any evidence with the tenant in their absence.

Landlord HW, landlord NM, and the tenant provided their names and spelling. Landlord HW and the tenant provided their email addresses for me to send a copy of this decision to both parties after the hearing.

Landlord HW confirmed that she is the resident manager for the landlord company ("landlord") named in this application and that she had permission to speak on its behalf. She stated that the landlord owns the rental unit. She confirmed the landlord's name and the rental unit address during this hearing. She identified herself as the primary speaker on behalf of the landlord at this hearing.

Landlord NM confirmed that he is the property manager for the landlord.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, landlord HW, landlord NM, and the tenant all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes to both parties. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties were provided with an opportunity to discuss settlement at this hearing, but they did not settle this application.

Landlord HW confirmed receipt of the tenant’s application for dispute resolution hearing package and the tenant confirmed receipt of the landlord’s evidence. In accordance with sections 88, 89, and 90 of the *Act*, I find that the landlord was duly served with the tenant’s application and the tenant was duly served with the landlord’s evidence.

Preliminary Issue – Dismissal of Tenant’s Application

At the outset of this hearing, the tenant confirmed that she applied to dispute a rent increase for capital expenditures. She stated that the landlord did not increase her rent for capital expenditures. She said that she did not receive an RTB decision approving a landlord’s rent increase for capital expenditures. She claimed that she did not know what other relief to apply for regarding the above, since she wanted to dispute a rent increase by the landlord.

At the outset of this hearing, the tenant confirmed that she initially applied for a monetary order of \$2,325.82 for a rent increase, as per the online RTB details of dispute. The tenant claimed that she was seeking an increased claim of over \$5,000.00 at this hearing, but she did not file an amendment or provide notice to the landlord for same, prior to this hearing. The tenant stated that she did not know that she had to file an amendment.

Pursuant to section 59(5)(a) of the *Act*, I can refuse to accept an application if it does not disclose a dispute that may be determined. The tenant is the applicant, and has the burden of proof, on a balance of probabilities, to apply for the correct claim, provide sufficient particulars of her claim, including any monetary amount, to provide sufficient evidence of her claim, and to prove her claim at this hearing.

The tenant applied for the incorrect claim in her application, which was not amended prior to this hearing. The landlord did not receive an RTB decision allowing a rent increase for capital expenditures. The tenant did not receive a rent increase for capital expenditures. The tenant applied for the incorrect monetary amount in her application. She wanted to pursue an increased monetary claim, that was not indicated in her application or amended prior to this hearing.

I notified the tenant that she could not amend her application to change the claim that she applied for or to increase her monetary claim at this hearing. I informed her that she did not file or serve an amendment form to the landlord and the landlord did not have notice of same, in order to respond or provide evidence at this hearing. The tenant confirmed her understanding of same.

The tenant filed this application on February 9, 2022, and this hearing occurred on May 16, 2022, over three months later. The tenant had ample time to know the full details of her application, including her claim and monetary amount, and to amend it and serve notice to the landlord, prior to this hearing, but failed to do so.

I informed the tenant that her application was dismissed with leave to reapply. I notified her that she could file a new application, if she wanted to pursue this claim in the future. The tenant confirmed her understanding of same.

The landlord's two agents did not object to my decision, during this hearing.

Conclusion

The tenant's application is dismissed with 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: May 16, 2022

Residential Tenancy Branch