



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the Landlord’s compliance - Section 55;
2. An Order in relation to a disputed rent increase - Section 36;
3. A Monetary Order for compensation - Section 60; and
4. An Order to recover the filing fee for this application - Section 65.

The Landlord did not attend the hearing. I accept the Tenant’s evidence that the Landlord was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) in person at the Landlord’s office to the Landlord’s agent on June 4, 2022. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to an order for the Landlord’s compliance?

Is the Tenant entitled to return of an illegal rent increase?

Is the Tenant entitled to the compensation claimed?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on April 24, 2021. Rent of \$625.00 is payable on the 24th day of each month. At the outset of the tenancy the Landlord collected a deposit of \$60.00 for hydro usage.

For the claim for the Landlord's compliance, the Tenant wants the Landlord to take a mandatory course on the operation of the Act to stop illegal evictions of tenants.

In late March 2022 the Landlord posted a general notice of rent increases to all tenants on the door of the office in the amount of \$40.00 per month to start on April 1, 2022. The notice was not on an RTB approved form and the Tenant was never given a notice of rent increase. The Tenant has not paid the rent increase indicated on the office notice.

Between April 2021 and July 24, 2022, the Landlord collected a total of \$408.15 in GST along with rent payments. The Tenant requested the return of these GST payments and was only returned \$4.85. The Tenant claims the remaining amount of \$408.15.

The Tenant claims compensation for their time in making their application and preparing and attending the hearing.

Analysis

Section 7(1) of the Acct provides that if a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. As there is nothing in the Act that allows or required a landlord to charge or collect GST on rents payable, I find that the Tenant has substantiated that the Landlord breached the Act by collecting the GST. Based on the Tenant's undisputed evidence of the amount collected and returned I find that the Tenant has substantiated the return of the claimed amount of **\$408.15**. As there is no evidence that the Landlord collected a rent increase contrary to the operation of the Act, I dismiss the Tenant's claim in relation to a rent increase.

Section 55(4)(b) of the Act provides that the director may dismiss all or part of an application for dispute resolution if the application or part does not disclose a dispute

that may be determined under this Part. As the Tenant has not provided any evidence of the Landlord's non-compliance in relation to the Tenant's tenancy, I find that no dispute has been disclosed and I dismiss this claim.

There is nothing in the Act that provides for a party's compensation to initiate and participate in the dispute proceedings beyond the recovery of the filing fee. I therefore dismiss the claim for the Tenant's time and lost income.

As the Tenant's application has met with some success, I find that the Tenant is entitled to recovery of the \$100.00 filing fee for a total entitlement of \$508.15. The Tenant may deduct this amount from future rent payable in full satisfaction of this claim.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$508.15**. If necessary, this order may be filed in the 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 Act.

Dated: September 26, 2022

Residential Tenancy Branch