



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding 0707904 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, FFT

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on September 21, 2022 seeking to dispute a rent increase by the Landlord, and for reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 67(2) of the *Manufactured Home Park Tenancy Act* (the “Act”) on February 23, 2023.

Both parties attended the hearing, and I provided each the opportunity to present oral testimony and make submissions during the hearing. At the outset, the Landlord confirmed they received the Notice of Dispute Resolution Proceeding and evidence prepared by the Tenant for this hearing. The Landlord did not prepare or serve evidence for this hearing.

Issues to be Decided

Did the Landlord increase the rent in accordance with s. 36 of the *Act*?

Is the Tenant entitled to reimbursement of the Application filing fee, pursuant to s. 65 of the *Act*?

Background and Evidence

The Tenant has resided in this manufactured home park, under a tenancy agreement, since 1983. As of 2022, they paid a rent amount of \$467.34 on the first day of each month.

In their evidence, the Tenant presented a copy of the “Notice of Rent Increase – Manufactured Home Site” signed by the Landlord on September 19, 2022. This increased the rent, starting on January 1, 2023, from \$467.34, to \$484.28 for the Tenant’s individual unit site number. For January and February 2023, the Tenant stated they paid this increased rent amount.

In the hearing, the Tenant set out that they obtained the material the Landlord relied on for this calculation. They requested the material used to establish the calculation specifically from the Landlord, via email on October 8, 2022 as appears in their evidence.

As forwarded to the Tenant by the Landlord, this was a BC Hydro “Bill & payment history” for the period November 19, 2019, to September 20, 2022, highlighting payments specifically from September 16, 2020 going forward. Additionally, there was an invoice for site “T13” of January 17, 2022, showing a connection charge amount of \$799 and a security deposit amount of \$174. Including taxes, this amount was \$1,012.95. With electricity and energy charges, the invoice total was \$1,028.06.

In the hearing, the Tenant explained their position that they don’t benefit from the connection for site number 13, and don’t believe they should be charged for this amount as part of a rent increase. Further, a deposit is something that would be returned to the Landlord in any event. The Tenant made it clear in the hearing that they were disputing only the part of the increase related to an individual manufactured home site, and not any other fees associated with electricity use throughout the manufactured home park.

The Tenant also presented that a major water leak in the manufactured home park led to a higher-than-normal water charge, compared to a previous year. In describing the issue in the hearing, the Tenant pleaded for a quicker response to such disruptions due to the increased costs incurred.

In response, the Landlord presented that they presented a rent increase to all tenants for each individual site in the park. This was a total of 35 units, as factored into their calculation for each site’s increased rent amount. As described, the “proportional amount is evenly spread” among all eligible manufactured home sites in the park. Specific to the manufactured home site 13, the Landlord stated the manufactured home was previously abandoned, and they are now having to put a new manufactured home in there to rent it out to a new tenant.

The Tenant presented this was the first time they had received a rent increase based on an increase in utility fees. The Landlord in the hearing confirmed this was the first time they delivered a rent increase of this type in this manufactured home park.

Analysis

The *Act* s. 1 contains the following distinguishing definitions:

- **“manufactured home park”** means the parcel or parcels, as applicable, on which one or more manufactured home sites that the same landlord rents or intends to rent and common areas are located
- **“manufactured home site”** means a site in a manufactured home park, which site is rented or intended to be rented to a tenant for the purpose of being occupied by a manufactured home

The *Act* s. 36 provides that a landlord may impose a rent increase only up to an amount calculated in accordance with the regulations. Where a landlord collects a rent increase that does not comply with the legislation, a tenant may deduct the increase collected, or otherwise recover that increase.

The *Manufactured Home Park Tenancy Regulation* (the “*Regulation*”) s. 32(1) contains the following information related to this Tenant’s Application:

- **“utility fees”** means the sum of payments respecting a manufactured home park made by the landlord for the supply of electricity, natural gas, water, telephone services or coaxial cable services . . .

In this tenancy, the Landlord imposed a rent increase to the Tenant, utilizing the particular form for this purpose, known as RTB-11a. The Landlord provided the amount for “last year” at \$1,140.18, and “this year” at \$2,208.39.”

The Landlord added an amount as a payment they made for supply of electricity; however, this was to an individual manufactured home site. This was not “respecting a manufactured home park” as specified in the definition of “utility fees” in s. 32(1) of the *Regulation*. I distinguish between “site” and “park” in finding that the Landlord improperly factored in utility payments they made for an individual site, and not the park.

The connection charge at the manufactured home site is identified on the utility invoice as “T13”. This is a single manufactured home site only, and not the park. Similarly, the security deposit paid is related only to that single site, and not the park. The evidence does not show a similar account number for both the bill & payment history information – which may be legitimate utility fees incurred over the previous twelve-month period – and individual bill details for T13 showing the connection charge and the security deposit. I find it more likely than not that the individual site invoice is for utility fees not related to the park.

I conclude the Landlord did not calculate the rent increase in accordance with the *Regulation*. While these were “payments” involving utility fees, they were not for the manufactured home park. This runs counter to the purpose and intent of the *Act* and the *Regulation*.

Further, the Landlord completed the form RTB-11a with an increased amount of \$2,208.39. In the hearing, the Landlord referred to an amount of \$1,114.53; however, they did not explain what this amount consists of with reference to the “bill & payment history” they provided to the Tenant. Without a detailed calculation, minus the connection charge and security deposit the Landlord had added in, I find there is no accurate record to determine if the Landlord otherwise recorded a correct amount for “this year” in that form’s Column E on page 3.

For this reason, I grant the Tenant’s Application, and order that the rent increase has no effect. The Landlord did not provide sufficient evidence to show the calculation for the amount they provided in Column E.

As of the date of the hearing, the Tenant paid \$33.88 (*i.e.*, the additional \$16.94 x 2); I grant the Tenant shall deduct that amount from one future rent payment.

As the Tenant was successful in this Application, I find the Tenant is entitled to recover the \$100 filing fee paid for this Application. I authorize the Tenant to withhold the amount of \$100 from one future rent payment.

Conclusion

I order the rent increase imposed by the Landlord on September 19, 2022 is of no effect. The Tenant shall be reimbursed by deducting the increased amounts paid and the filing fee (exactly \$133.88) from one future rent payment.

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

Dated: February 27, 2023

Residential Tenancy Branch