



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOSPITAL CREEK DEVELOPMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, FFT

Introduction

This hearing was scheduled to convene at 11:00 a.m. on June 23, 2023 concerning an application made by the tenant disputing a rent increase and seeking to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing with a support person and gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call.

The tenant testified that the landlord was served with the Notice of Dispute Resolution Proceeding and Respondent Instructions (the Hearing Package) by registered mail on March 9, 2023, and orally provided a tracking number. A party served in that manner is deemed to have been served 5 days later. I am satisfied that the landlord has been served in accordance with the *Manufactured Home Park Tenancy Act*.

The tenant did not provide the landlord with any of the tenant's evidentiary material. Any evidence that a party wishes to rely on must be provided to the other party, Since the tenant has not done so, I decline to consider any of the tenant's evidentiary material.

Issue(s) to be Decided

Has the tenant established that rent has been increased contrary to the *Manufactured Home Park Tenancy Act* and the regulations?

Background and Evidence

The tenant testified that this tenancy began in 1976 and the tenant still resides in the manufactured home park, in a manufactured home owned by the tenant. Rent in the amount of \$310.00 is currently due on the 1st day of each month.

Initially rent was \$277.00 per month, then was increased to \$310.40 starting January 1, 2023. The landlord served a Notice of Rent Increase with a copy of expenses to upgrade utilities for the park. The increase is \$33.40 per month, but the allowable increase is \$5.54. The landlord has not served a request to increase more than 2%.

The tenant further testified that page 3 of the Notice of Rent Increase shows a utility fee of \$13,000.00, however the public utility fee was actually repairs. It also states 2%, but manufactured home parks can increase more. However it's for repairs, not a public utility fee. The letter also says that the landlord has been fixing water leaks, which is the main driver, and repairs are still required.

In a previous hearing the landlord admitted making a mistake.

The tenant claims \$167.16 for the unlawful rent increases from January through June, 2023. The tenant pays water and garbage pickup to the City and hydro utilities. Rent is usually paid by cheque.

Analysis

The *Manufactured Home Park Tenancy Act* specifies how rent increases can occur:

Rent increases

34 A landlord must not increase rent except in accordance with this Part.

Timing and notice of rent increases

35 (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:

- (a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first payable for the manufactured home site;
- (b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.

(2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.

(3) A notice of a rent increase must be in the approved form.

(4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

Amount of rent increase

36 (1) A landlord may impose a rent increase only up to the amount

(a) calculated in accordance with the regulations,

(b) ordered by the director on an application under subsection (3), or

(c) agreed to by the tenant in writing.

(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.

(3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

(4) [Repealed 2006-35-11.]

(5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.

Notice of rent increase has no effect

36.1 (1) For the purposes of this section, a date that applies under section 83 (a), (b), (c) or (d), or that is prescribed under section 89 (2) (r), as the date a notice is deemed to be received is the date that applies regardless of whether the notice is received earlier or later than that date.

(2) A notice given under this Part for an increase based on a calculation made under section 36 (1) (a) has no effect if the notice

(a) is received before September 30, 2021, as determined under subsection (1) of this section, and

(b) has an effective date that is after March 30, 2020 and before January 1, 2022.

The regulations state that a landlord may impose a rent increase with an effective date on or after January 1, 2023 and before January 1, 2024 that is not greater than 2% plus the proportional amount.

However, a landlord may apply for an additional rent increase if the landlord has completed significant repairs or renovations to the manufactured home site that are reasonable and necessary and will not recur within a reasonable time, or if the landlord has incurred a financial loss from an extraordinary increase in the operating expenses, or for financing if financing costs could not have been foreseen under reasonable circumstances. Such an application must be made for all sites by an equal percentage.

In this case, without seeing the Notice of Rent Increase served on the tenant, I cannot determine whether or not the increase is lawful. As a result, I must dismiss the tenant's application, with leave to reapply.

Conclusion

For the reasons set out above, the tenant's application is hereby 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 *Manufactured Home Park Tenancy Act*.

Dated: June 26, 2023

Residential Tenancy Branch