



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes DRI

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act*, (the “Act”) to dispute a rent increase. The matter was set for conference call.

Both the Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue to be Decided

- Did the Landlord issue an illegal rent increase?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreements for this tenancy recorded that this tenancy started on October 1, 2020. That the current rent in the amount of \$2,500.00 is due on the first day of each

month, and the Tenant paid the Landlord a \$1,000.00 security deposit and the beginning of the tenancy.

The parties agreed that the Landlord and the Tenant have signed three tenancy agreements, the first for the tenancy period between October 1, 2020, to September 30, 2021; the second tenancy agreement was for the tenancy period between October 1, 2021, to September 30, 2022, and the third tenancy agreement was for the tenancy period between October 1, 2022, to September 30, 2023. The Tenant submitted three tenancy agreements into documentary evidence.

The parties agreed that the rent between the second and third tenancy agreements was increased from \$2,000.00 to \$2,500.00 per month. The Tenant submitted a \$500.00 increase that was above the allowable amount set by the Residential Tenancy Branch.

Analysis

Based on the above, testimony and evidence, and on a balance of probabilities, I find as follows:

I have reviewed the three tenancy agreements signed between these parties, and I noted that each of these tenancy agreements was for a one-year fixed-term tenancy, that would have rolled into a month-to-month tenancy, if no new tenancy agreement was signed. However, each time the fix-term contained in these tenancy agreements expired the Landlord and Tenant opted to sign a new fix-term tenancy agreement, which was within their right.

In this case, the Tenant has submitted that the negotiated new tenancy agreement, dated August 11, 2022, breached section 43 of the Act. As the Landlord included a term that increased the rent to \$2,500.00 per month. Section 43 of the Act states the following:

Amount of rent increase

- 43 (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.*

I accept the agree-upon testimony of these parties that the Landlord and the Tenant negotiated a new fixed tenancy agreement in August 2022, that started as of October 1,

2022, for a monthly rent amount of \$2,500.00, and that both of these parties signed that document.

As the Tenant and Landlord entered into a new written tenancy, I find that the restriction of the amount of a rent increase does not apply to the tenancy agreement signed on August 11, 2022.

Accordingly, I find that there was no breach of section 43 of the Act by the Landlord when they negotiated this new tenancy agreement with this Tenant. Consequently, I must dismiss the Tenant's claim in its entirety, as they have failed to prove a breach of the Act by the Landlords on this matter.

Conclusion

I dismiss the Tenant's application in its entirety.

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: June 15, 2023

Residential Tenancy Branch