



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ARI - C

Introduction

This hearing dealt with the landlord's application pursuant to the Residential Tenancy Act (the "Act") and the Residential Tenancy Regulation (the "Regulation") for an additional rent increase for capital expenditure pursuant to section 23.1 of the Regulation.

The landlord IK attended the Hearing, the tenant did not. The landlord provided Canada Post Tracking information and slips to show that the tenant was served by way of registered mail on October 24, 2023 and therefore deemed served on October 29, 2023. Pursuant to sections 89 and 90 of the Act, I am satisfied that the tenant is aware of this hearing, the hearing proceeded and completed on that basis.

Issues to be Decided

Is the Landlord entitled to impose an additional rent increase for capital expenditures?

Preliminary Issue

IK testified that he has already been granted an additional rent increase for these expenditures by another Arbitrator on September 13, 2023. IK has brought forward this application to "seek to cure a technical error being the incorrect name of the respondent". IK testified that he noted the previous tenants names on the application instead of the subject tenant. IK testified that the expenditures were completed on December 6, 2022 and that the subject tenant's tenancy didn't start until January 1, 2023. IK made that application on May 9, 2023. IK requests that the same evidence be considered and that an additional rent increase be applied to this tenant.

Analysis

Residential Tenancy Policy Guideline 37C section E addresses the issue before me as follows.

A landlord **must make a single application** to increase rent for all the rental units on which a landlord intends to impose an additional rent increase. As noted in Policy Guideline 37B, a tenant may voluntarily agree in writing to a rent increase greater than the maximum annual rent increase. When a condition of the voluntary agreement is that a landlord will not seek to impose an additional rent increase on the tenant, the tenant does not need to be named and served with the Application for an Additional Rent Increase. However, a landlord must include all specified dwelling units in calculating the percentage of the rent increase that will apply to each unit, even if they are not part of the application.

Each tenant named on the application must be served with a copy of the Application and hearing package. Any evidence that supports the Application must be given to each of the named tenants. **A landlord cannot make more than one application for an additional rent increase for the same capital expenditure**. A landlord can make a single application for an additional rent increase for multiple capital expenditures when all the expenditures were incurred within the 18-month period prior to making the application. A landlord may apply for an additional rent increase against a tenant, even if that tenant moved into the rental unit after an eligible capital expenditure was incurred. A landlord cannot make an application for another additional rent increase in respect of a rental unit for 18 months after a landlord last made an application for an additional rent increase that was granted in respect of that rental unit. The relevant date is the date the application was made (the date it was submitted), and not the date the director actually granted the application.

The tenant moved in after the capital expenditures were completed. The subject tenant had already lived in the property for four months when the landlord had filed their original application, it's not as if the application and the tenancy started at the same time and there was some omission or confusion. The tenancy had been in effect for a considerable time. I do not accept the landlords submission that this was a "technical error". The landlord initiated the process and made an error that he is solely responsible for. As noted above, only one application can be made for the same capital expenditure, accordingly; I dismiss this application.

Conclusion

The landlord's application is dismissed without 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: January 18, 2024

Residential Tenancy Branch