Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: DRI and FF

Introduction

The Tenant stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Landlord via registered mail at the address noted on the Application and to Box 1131, Princeton, BC, on August 07, 2008. Two tracking numbers were provided. The Canada Post website shows the one package was delivered on August 08, 2008 and the second package was delivered on August 18, 2008. These documents are deemed to have been served in accordance with section 89 of the *Act,* however the Landlord did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided is whether fees being charged by the Landlord constitute a lawful rent increase and whether the Tenant is entitled to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Background and Evidence

The Tenant stated that she moved into this residential complex in 2003. She stated that she moved from her original rental unit to a new rental unit within the same complex on August 31, 2003. The Tenant stated that she signed a new tenancy agreement on April 01, 2006. She stated that the property was sold on June 26, 2008, at which time she did not sign a new tenancy agreement. The Tenant stated that she currently pays monthly rent in the amount of $345.00.

The Tenant stated that a parking space was provided to her when she moved into the residential complex in 2003. She stated that a different parking space was assigned to her in 2006, when she moved to a different rental unit. She stated that each parking stall is equipped with a block heater, the electricity for which is obtained from the associated rental unit. She stated that parking stalls are assigned to specific rental units because the occupant of the rental unit pays for the electricity for operating the block heater.

The Tenant submitted a copy of her written tenancy agreement. Although parking is not clearly checked to show that it is included in the rent, there is a notation that could lead one to believe that parking is included for one vehicle.

The Tenant stated that she was assigned a storage locker when she moved into the residential complex in 2003. She stated that her original storage locker was dismantled and she was assigned a new storage locker in the summer of 2008.

The Tenant submitted a Notice of Rent Increase, dated June 30, 2008, which indicates that the Tenant's rent will increase by $55.00, effective September 01, 2008. She submitted a letter from the Landlord, dated September 12, 2008, which indicated that the Notice of Rent Increase was being withdrawn. In that letter the Landlord notified the Tenant that, effective immediately, they would be charging $30.00 per month for parking and $25.00 per month for storage.

Analysis

I find that the Tenant had a verbal tenancy agreement, which included parking, when she first moved into this residential complex in 2003. Although the tenancy agreement that she signed when she moved to the new rental unit in the same complex does not clearly state that parking was included with her rent, I find that there are sufficient grounds to conclude that it was a service or facility that was included in her rent. In reaching this conclusion, I considered the following:

- The Tenant was assigned a specific parking space for her personal use on April 01, 2006
- The Tenant has had exclusive use of that parking space since April 01, 2006
- The Tenant pays for the electricity to operate the block heater for her space heater
- The tenancy agreement is unclear regarding parking terms. Although parking is not clearly checked to show that it is included in the rent, there is a notation that could lead one to believe that parking is included for one vehicle.

Although it is not specifically addressed in her written tenancy agreement, I find that the Tenant and the Landlord verbally agreed that a storage locker was a facility that was provided to her with her rent payment. In reaching this conclusion, I was strongly influenced by the Tenant's statement that she has had a storage locker throughout her tenancy. I therefore find that the storage locker is a service or facility that was included with her rent.

As I have found that a parking space and a storage locker are both facilities that were included with her rent, I find that the Landlord's attempt to charge a fee for these services at this point in the tenancy constitutes a rent increase of $55.00.

Section 43(1) of the Act stipulates that a Landlord may only increase rent only in the amount that is calculated in accordance with the regulations; an amount that is ordered by the director upon application; or an amount agreed to by the Tenant.

I find that there is no evidence to indicate that the Tenant agreed to a rent increase in the amount of $55.00 or that the director authorized an increase of $50.00. I find that a $55.00 rent increase does not comply with the regulations.

I find that the Tenant's Application for Dispute Resolution has merit and I find that the Tenant is entitled to compensation, in the amount of $50.00, for the cost of filing this Application for Dispute Resolution.

Conclusion

I find that the $55.00 fee that the Landlord is attempting to charge for parking and storage constitutes a rent increase. As the rent increase does not comply with the legislation, I find that the Landlord is not entitled to a rent increase of $55.00. I hereby order that rent for this rental unit remain at $345.00 until it is increased in accordance with the legislation.

As compensation for the fee the Tenant paid for this Application for Dispute Resolution, I hereby authorize the Tenant to reduce her next monthly rent payment by $50.00.

Date of Decision: October 09, 2008

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