



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, OLC, MNDC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenants served the landlord with the notice of hearing package and the submitted documentary evidence in person on November 13, 2019. Both parties also confirmed the landlord served the tenants with the submitted documentary evidence by posting it to the rental unit door on December 13, 2019. Neither party raised any service issues.

I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Preliminary Issue(s)

At the outset, the tenants' application was clarified. Discussions with both parties revealed that the tenants do not seek an order to dispute a rent increase as no such notice was issued by the landlord. The tenants also seek an order for the landlord to

comply with the Act and Regulations to serve a notice of rent increase. The landlord agreed. As such, no further action is required for these portions of the application.

The hearing proceeded only on the tenants request for a monetary claim for money owed in an overpayment of rent and recovery of the filing fee.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for money owed or compensation and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on November 1, 2017 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated November 1, 2017. The monthly rent was \$800.00 payable on the 1st day of each month. A security deposit of \$400.00 was paid.

The tenants seek a claim of \$2,234.00 for a claim that rent was increased contrary to the Act and Regulations. The tenants stated that the above claim consists of:

\$150.00	Overpayment of Rent, May 2018
\$1,400.00	Overpayment of Rent, June – December 2018 (7 months at \$200)
\$816.00	Overpayment of Rent, Jan. – Dec. 2019 (12 months at \$68)

The landlord disputes the tenants' claims of overpayment of rent from May 2018 to December 2018 and confirmed that the overpayment of rent for January to December 2019 was made.

The landlord claims that the payments made between May 2018 and December 2018 were made mutually to accommodate an additional occupant in the rental unit.

The tenants confirmed that they had an additional occupant (the tenant's brother) occupying the rental unit during this period. The tenants stated that they contacted the

landlord to ask permission for an additional occupant and that the landlord had requested the additional monies for this occupant.

Analysis and Conclusion

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

During this hearing, the parties reached an agreement to settle their dispute under the following final and binding terms:

1. Both parties agreed that beginning February 1, 2019 the monthly rent is \$850.00.
2. The landlord agreed to pay the \$816.00 portion that was uncontested by the landlord forthwith to the tenants.
3. The tenants agreed to withdraw the remaining \$1,550.00 from the claim concerning the period May 2018 to December 2018.
4. Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

As this matter was resolved in settlement, I decline to make an order for recovery of the filing fee.

In order to implement the above settlement reached between the parties, I issue a monetary order in the tenants' favour in the amount of \$816.00. I deliver this Order to the tenants in support of the above agreement for use in the event that the landlord does not abide by the terms of the above settlement. The tenants are provided with this Order in the above terms and the landlord must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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 08, 2020

Residential Tenancy Branch