



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") to dispute a rent increase from the Landlord, and to recover the \$100.00 cost of their Application filing fee.

The Landlord, K.K., the Tenants, J.J. and C.R., and an agent for the Tenants, L.R. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. During the hearing the Tenants and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. The Landlord said he had received the Application and Notice of Hearing from the Tenants and had reviewed it prior to the hearing. The Landlord acknowledged that he had not served the Tenants with the evidence he submitted to the RTB within at least seven days of the hearing. As such, and pursuant to Rule 3.15 and rules of administrative fairness, I find that the Landlord breached these Rules by not having served the Tenants with his documentary submissions with enough lead time before the hearing. As such, I was unable to consider the Landlord's documentary submissions in making my Decision.

Preliminary and Procedural Matters

The Tenants provided the Parties' email addresses in the Application, and the Parties confirmed these in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Issue(s) to be Decided

- Did the Landlord impose an illegal rent increase?
- Are the Tenants entitled to a Monetary Order, and if so, in what amount?
- Are the Tenants entitled to Recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties indicated that the Tenants rented rental units from the Landlord at a property on [P.] Street. They indicated that another tenancy was entered into between the Parties for a residential property on [F.] Street. The amount of the rent at the new residential property is a question that is before me, as are the details of whether a security deposit was paid to the Landlord or not.

As context for this tenancy, I find from the testimony in the hearing, that there are or were three Tenants, J.J., C.R. and D.M., renting the properties from the Landlord. The first two of these Tenants attended the teleconference hearing and lived in the basement suite of the property on [P.] Street. The other Tenant, D.M., who was not at the hearing, lived upstairs, I inferred.

During the Parties' testimony, it became apparent that the Landlord had to sell the residential property on [P.] Street, in which the Tenants lived; however, the Parties discussed and agreed that the three Tenants would move to another of the Landlord's properties on "F" Street.

The Tenants have applied to dispute a rent increase from the Landlord, although, they did not provide sufficient documentary evidence to support this claim. In the hearing, the Tenants testified of their understanding that the rent at the two properties would be the same; however, the Landlord disagreed, saying that the property on [F.] Street was in a better location than that on [P.] Street, and that he could get a lot more rent for it.

The Landlord said:

[P.] Street was my personal property under myself and wife's name. When they moved in, back in 2020, that property was – I had purchased this new house on [F.] Street, which was under the company – totally different owners. So, I

purchased that and we applied for a mortgage, and at the last minute it was declined, so we sold the [P.] Street property.

[The Tenants] were given options: [C.R.] and [J.J.], they could have stayed downstairs, as long as they wanted – no rent increase or discussed move. However, [D.M.] upstairs was a different deal altogether. So, he was given an option to move out with a two months' notice; the new owner wanted that suite.

During that time, I approached [D.M.] about the other property – advertised for \$3,200.00. I said, 'I haven't signed with new tenants yet, should you be interested, you can go look at it'. He went with me to see the place and he liked it - [the location] was the difference between the two properties. He loved it, but said he could not afford it, so he approached [C.R.] and [J.J.] – they loved it.

We sat down and they came up with all of them moving in. They decided that on their own. We agreed on [D.M.] and he wanted them to pay the extra rent, I sent him a text message, that that's not fair, 'Should there be any increase, it should be yours'. I have all those evidence in text messages. I do not have any issues with [C.R.] to this day. If they are paying \$1,300.00 - they were paying when they lived up there - I am more than willing to give them \$1,300.00. [D.], I don't know why he is not here – not uncommon to have excuses. It's definitely something that [D.] should be here for. They were two different properties, two different prices. I have no issues with [J.] or [C.], if they were willing to pay \$1,300.00, but the rest must be coming from [D.].

The Agent said:

A lot of what he is saying we are totally unaware of. He tries to say there is no pressure, all of that is completely opposite of what everybody else was told. He met them at some restaurant with the new owner. He spoke to all three of them right there, and had them make a decision right then. He gave some options - one to stay - that the new landlord would be raising the rent immediately. This was all only verbal. They could stay there if they wanted to.

With [D.], the offer was that if he stayed there, he was going to rent out the other rooms to the two girls. He was told to make the rent higher or somebody else was living in those two rooms. So that offer didn't work. By the time they had given these offers they were not so good, and that they felt forced to move into this new house. It was [the Landlord] who was trying to get them in there. They

saw the new place, they liked it, but they didn't want to live together in the one place.

The kids were traumatized, the temperature was -28 [degrees], and [the Landlord] said he would help them move, as well, because they are on disability and don't have a lot of money. There's no way they can move, so that day that they talked to him, the next day he brought a truck - the next day. He moved the beds and bedding over and disappeared, and they never saw him again. He makes it sound like he gave them all these wonderful offers. [C.] said she specifically talked to [the Landlord]. It was a very nice house, but way smaller than where they are living now. They were made to move in the middle of December in -28 [temperatures]. They had to borrow money; their Christmas was over....

The Tenants testified as to the Landlord over-charging them for rent in December 2021. They also questioned the increase in the rent from one property to another. However, they did not submit any documentary submissions to support their claim that the rent would remain the same moving from one property to another. In the hearing, the Landlord agreed that the C.R.'s and J.J.'s rent could remain at \$1,300.00; however, he expected D.M. to make up the difference; D.M. was not at the hearing, nor did he submit any evidence to establish his version of events.

The Landlord advised that C.R. and J.J. moved out of the [F.] Street property in February 2022, although, they did not provide the Landlord with any notice of vacating the property. The Landlord asserted that the Tenants still owe him money.

The Tenants submitted a copy of a letter dated January 13, 2022, which was sent by the Landlord's property manager at the time. In this letter, the property manager sets out that the Tenants are to pay their rent to the property manager, rather than the Landlord. The letter advises the Tenants of how to pay the property manager, and the amounts quoted are consistent with the Landlord's version of events that the rent for the property on [F.] Street totalled \$3,200.00, as the Parties had discussed in the hearing.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

I find that the Tenants have not submitted sufficient evidence to explain their claim, let

alone to prove it on a balance of probabilities. The only documentary evidence before me is the letter from the property manager that the Tenants submitted, which I find supports the Landlord's position, rather than that of the Tenants.

The usage of a monetary order worksheet (RTB-37) is not mandatory; however, applicants must ensure their submissions are clear, legible and organized. It would have been helpful if the Tenants had submitted a completed monetary order worksheet setting out what they seek in this Application. It is not clear how many different monetary claims the Applicants are making, and how much money they are claiming for each claim.

The Landlord's testimony indicated that it is the Tenants who owe the Landlord money, rather than the other way around. However, the Landlord did not apply for dispute resolution claiming against the Tenants' Application, so that is not an issue before me.

Conclusion

The Tenants are unsuccessful in their Application, as they failed to submit sufficient evidence to make their claim clear, let alone proven on a balance of probabilities. The Tenants' Application is dismissed wholly without leave to reapply.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: May 25, 2022

Residential Tenancy Branch