

Residential Tenancies Tribunal

Application 2024-0720-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 9-October-2024 at 2:01 pm.
2. The applicant, [REDACTED], hereinafter referred to as the tenant, attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the landlord, also attended via teleconference.

Preliminary Matters

4. The respondent acknowledged she had received proper notice of the hearing and did not need more time to prepare.

Issues before the Tribunal

5. Should the tenant's claim for a refund of rent succeed?

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).

Issue 1: Refund of Rent

Tenant's Position

7. The tenant claims \$1200 for a refund of rent. He testified that the landlord provided a notice of rental increase (T#1) on 2-February-2022 to be effective 1-August-2022 and that this is short of the six months notice required by s. 16(3)(b) of the *Act*. This notice increased the rent by \$100.00 per month, from \$1000.00 to \$1100.00 per month. The notice concerned a 1-year fixed term agreement. He also says that the landlord provided the notice at the same time as a termination notice, essentially telling him to "pick one."

Landlord's Position

8. The landlord advised that she often relied on the tenant for his knowledge of the Act in relation to her rental agreement with him and other tenants of hers. She asks why the tenant did not make her aware if there was an issue with the notice (for his part, the tenant replied that he is not required to advocate for the landlord, particularly against his own interest). She says that if the rental increase was illegal she would not have issued it. She notes that the parties signed a rental agreement with a rent of \$1100.00 subsequent to the notice being issued, and the tenant had corrected the rental amount himself (the tenant replied that this was not agreement, but an attempt to ensure he was dealing honestly with the landlord, whom he knows sometimes suffers from memory problems).

Analysis

9. S. 16(3)(b) of the Act states

Rental increase

16. ...

(3) Where a landlord increases the amount of rent payable by a tenant, the increase shall be effective on the first day of a rental period, and the landlord shall give the tenant written notice of the increase

...

(b) not less than 6 months before the effective date of the increase where the residential premises is rented from month to month or for a fixed term.

10. The tenant is correct that 2-February-2022 is one day shy of six months from 1-August-2022. This is sufficient to render the notice of rental increase invalid. The landlord's reliance on the tenant is not relevant to the issue.
11. A notice issued 2-February-2022 could not have become effective until 1-September-2022. But for the landlord's failure to adhere to the notice requirements, the tenant would not have had to pay the increased rent for the month of August 2022. Therefore, the tenant is entitled to a refund of \$100.

Decision

12. The tenant's claim for a refund of rent succeeds in the amount of \$100.00.

Summary of Decision

13. The landlord shall pay to the tenant \$100.00 in a refund of rent.

29-October-2024

Date


Seren Cahill
Residential Tenancies Office