



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      DRI, OLC

### Introduction

This hearing dealt with the tenant's application to dispute a rent increase and for Orders for the landlord to comply with the Act, regulations or tenancy agreement. At the commencement of the hearing the tenant was present and testified she had served the landlord with notification of this hearing by registered mail. The landlord then appeared at the hearing and I proceeded to hear from the parties. Both parties were given the opportunity to be heard.

### Issues(s) to be Decided

1. Is the Notice of Rent Increase issued to the tenant valid and enforceable?

### Background and Evidence

The tenant provided undisputed testimony that she has lived in the rental unit since November 4, 1991 and currently pays rent of \$554.79. The tenant testified that on November 29, 2009 she received a Notice of Rent Increase from the landlord via facsimile. The tenant disputed the Notice the next day.

The Notice of Rent Increase has an issue date of October 28, 2009 and is prepared on an old form produced by the Ministry of Attorney General in 1999. The Notice indicates the rent will be increasing by \$50.21 as of March 1, 2010.

Upon discussion of the requirement to use the “approved form” for Notices of Rent Increase and the regulated limit of 3.2% for the amount of the rent increase, the landlord argued that using the old form should not invalidate the Notice issued and that the tenant should still be required to pay the regulated amount as of March 1, 2010.

### Analysis

Sections 40 through 43 of the Act provide for rent increases. Section 43(1) of the Act provides for the amount the rent may be increased. As explained to the parties during the hearing, the rent increase that may be imposed upon a tenant is limited to the amount:

- (a) calculated in accordance with the regulations;
- (b) permitted by a Dispute Resolution Officer on a Landlord’s Application for Additional Rent Increase; or,
- (c) agreed upon by the tenant in writing.

As the landlord did not have the tenant’s written consent to increase the rent or the authority of a Dispute Resolution Officer, the landlord was limited to the regulated limit. For rent increases that take effect in 2010 the regulated rent increase limit is 3.2%.

Section 42(3) of the Act requires a landlord to serve a notice that is in the “approved form”. The definition of “approved form” refers to section 10 of the Act. Section 10(2) provides that deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.”

I have compared the form used by the landlord and the current approved form for Notices of Rent Increases. The form used by the landlord does not contain the information that the current form contains for landlords and tenants with respect to the rights and obligations pertaining to rent increases. The form used by the landlord also provides for reasons for the rent increase that the current form does not provide.

Currently, if the landlord has reasons to increase the rent in addition to the regulated amount he must seek the tenant's written consent or obtain authorization from a Dispute Resolution Officer; whereas, the old form appears to provide for rent increases for other reasons. Therefore, in light of these differences, I find the form used by the landlord does not convey the same substance as does the current approved form and I find the form used by the landlord is invalid.

In light of the above, I find the Notice of Rent Increase issued to the tenant to be invalid and ineffective. The tenant remains liable to pay rent of \$554.79 until such time the rent increases legally. The landlord is at liberty to issue a Notice of Rent Increase in the approved form; however, the tenant will remain entitled to three months of notice from the date the Notice is received.

The landlord may obtain a Notice of Rent Increase in the approved form from the Residential Residency Office, including its website at: [rto.gov.bc.ca](http://rto.gov.bc.ca).

### Conclusion

The Notice of Rent Increase issued by the landlord has been found to be invalid and of no effect on the tenant. The rent remains at \$554.79 until such time it legally changes.

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, 2010.

---

Dispute Resolution Officer