



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      DRI OLC FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the "*Act*"), to dispute an additional rent increase; order the landlord to comply with the *Act*, and recover the filing fee.

A tenant appeared by conference call and gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and make submissions to me. The landlords did not attend the hearing.

The tenant testified that the Notice of Hearing and evidence package was sent via registered mail to both landlords on May 16, 2012. Registered mail receipts were submitted as documentary evidence prior to the hearing. The tenant stated that one of the respondent landlords picked up his package however the other landlord had not picked up his package. Given the above, I find the landlords were served with the Notice of Hearing in accordance with the *Act*.

### Preliminary and Procedural Matter

Prior to considering the merits of the tenants' application, the issue of jurisdiction was considered. As the *Act* does not apply to use and occupancy of Indian Land, the issue of ownership of the land to which the dispute site is located was addressed.

The tenant testified that to the best of his knowledge, the dispute site is located on private land owned by the mother of one of the respondent landlords. The tenant stated that he was advised previously that the dispute site was severed from reserve land and is now considered private land. As a result of this undisputed testimony, I find that the dispute site is not located on Indian Land. I, therefore, find that I have jurisdiction under the *Manufactured Home Park Tenancy Act* to resolve this dispute.

### Issue(s) to be Decided

- Does the rental site rent increase comply with the *Act*?
- Should the landlord be ordered to comply with the *Act*, regulation or tenancy agreement?
- Should the tenant recover the filing fee?

### Background and Evidence

The tenant affirmed that the tenancy agreement began in October 1998. Originally, the rental site rent was \$250.00 and was increased to \$300.00 on October 1, 2002. The monthly rent is due on the first day of each month.

The tenant testified that the landlords notified him 3 months in advance in writing, on or before March 1, 2012, that a rental site rent increase of \$100.00, for a total of \$400.00 per month, would start on June 1, 2012. Although the letter was not dated, the tenant confirms it was provided before March 1, 2012. The tenant stated that the rent increase exceeds the 4.3% permitted under the *Act*, and is seeking a remedy as a result. A copy of a written letter providing notice from the landlord advising of the pad rent increase was submitted as documentary evidence prior to the hearing.

The tenant stated that he paid the increased rental site rent for June 1, 2012 for a total of \$400.00 as he prides himself on paying his rent on time. The tenant asked whether this Decision would cover the other tenants in the park.

The tenant provided a copy of correspondence; and park rules and regulations as evidence for this hearing.

### Analysis

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

The tenant stated that the landlord provided three months notice via a written letter advising of a rental site rent increase from \$300.00 to \$400.00; a total rent increase of 33.33%. The maximum rental site increase under the *Act* for is 4.3% for 2012. Furthermore, the written pad rent notice by the landlord, is not in the approved form as required under section 35(3) of the *Act*.

As a result, I find that the landlords' rental site rent increase served on the applicant tenants must be cancelled. Before the landlord can increase the rental site rent for this tenant, a new notice must be served in accordance with the *Act*, to a maximum of 4.3%, using the approved form (Form RTB-11), which is available online at the Residential Tenancy Branch website at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca).

Based on the above, I find the tenants overpaid rent for June 2012 in the amount of **\$100.00**. As the tenants have succeeded with their application, I award recovery of the **\$50.00** filing fee. I order the tenants may deduct the total amount of **\$150.00** from July 2012 rental site rent of \$300.00, leaving a balance of \$150.00 due to the landlord on or before July 1, 2012.

As other park tenants were not included in this application and the tenants did not provide any evidence that they were representing other tenants in his application, this

Decision applies only to the applicant tenants. This Decision, however, does not preclude other tenants from applying for relief under the *Act*.

Conclusion

I find that I have jurisdiction to hear this dispute based on the undisputed testimony of the tenant that the rental site is not located on Native Land.

I find that the landlords' rental increase is not in accordance with the *Act* and is, therefore, **cancelled**. The landlords must apply for a rental increase in accordance with the *Act*; using the approved form; and may not increase the rent more than the allowable rent increase of 4.3% in 2012. As a result, the tenants rent remains at \$300.00 until increased in accordance with the *Act*.

I order the tenants may deduct the **\$100.00** overpayment of rent made on June 1, 2012 and the **\$50.00** filing fee from July 2012 rental site rent.

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 *Manufactured Home Park Tenancy Act*.

Dated: June 21, 2012

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Residential Tenancy Branch