



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, FF

### Introduction

This hearing was convened by way of conference call in repose to the tenant's application to cancel an additional rent increase and to recover the filing fee paid for this application from the landlord.

The tenant and landlord's agent attended the conference call hearing, gave sworn testimony. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

Is the tenant entitled to dispute an additional rent increase?

### Background and Evidence

The parties agree that this tenancy started on November 01, 2011. The tenant pays a monthly rent of \$531.00. The landlord has given the tenant a rent increase on an approved form by registered mail on September 24, 2012. A rent increase of \$115.00 will be applied starting on December 01, 2012; this then takes the tenants monthly rent to \$646.00.

The tenant testifies that when he moved to the unit the landlord informed the tenant that the tenant did not qualify for a rent subsidy and the tenant must pay the market rent. The tenant testifies that the landlord has now given the tenant a rent increase which has increased the tenants rent by over 25 percent which the tenant disputes.

The landlord's agent testifies that they are a management agent for BC Housing and that the tenants building offers subsidized seniors housing provided by BC Housing. The landlord's agent submits that due to this they do not fall under the jurisdiction of the *Residential Tenancy Act* regarding the increase of rent regulation.

The tenant testifies that had he known this before he filed his application he would not have done so and therefore seeks to recover his \$50.00 filing fee.

The landlords agent testifies that all tenants have the same tenancy agreement which documents that this is subsidized housing if a tenant qualifies for a subsidy. As this tenant did not qualify at this time he has to pay the market rent as determined by BC Housing.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I am satisfied with the landlord's agent's testimony that the tenancy agreement in place between the parties documents that the landlord operates subsidized housing and the tenant pays the market rate for his unit.

The landlord has established that they offer subsidizing the rent for tenants if they qualify. It is therefore my decision that the landlord does offer subsidized housing and as a body has an agreement in place with British Columbia Housing and is therefore exempt from portions of the *Act* as follows:

*Rental units operated by the following are exempt from the requirements of sections 34 (2), 41, 42 and 43 of the Act [assignment and subletting, rent increases] if the rent of the units is related to the tenant's income:*

- a) The British Columbia Housing management commission;*
- b) The Canada Mortgage and Housing Corporation;*
- c) the City of Vancouver;*
- d) the City of Vancouver Public Housing Corporation;*
- e) metro Vancouver Housing Corporation;*
- f) the Capital Region Housing Corporation;*
- g) any housing society or non-profit municipal housing corporation that has an agreement regarding the operation of residential property with the following:*
  - I. The government of British Columbia;*
  - II. The British Columbia Housing management Commission;*
  - III. The Canada mortgage and Housing Corporation.*

Consequently, the Residential Tenancy Branch has no jurisdiction over the amount of rent paid at this rental unit. If the tenant wishes to dispute the rent amount the tenant must look to some other form of jurisdiction in this matter.

As I have no jurisdiction in this matter and the tenant could have determined the landlord's status concerning subsidized housing prior to filing his application for Dispute Resolution it is my decision that the tenant must bear the cost of filing his own application.

The tenant's application is therefore dismissed without leave to reapply.

### Conclusion

I decline jurisdiction in the matter of the tenant's application to dispute an additional rent increase as the landlord receives funding from at least one of the Organizations detailed in s. 2(g) of the Residential Tenancy Regulations and is therefore exempt from the provisions s. 41, 42 and 43 of the *Act*.

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: October 16, 2012.

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Residential Tenancy Branch