



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Yau Fat Holdings Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI MNDC RR O

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "*Act*") to dispute an additional rent increase, for a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, and an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, and "other", although details of "other" are not clear in the details of dispute in relation to the monetary claim.

The tenant, a friend and support for the tenant, the agent for the landlord (the "agent") and the building manager for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Both parties confirmed that they received an evidence package from the other party prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. I find the parties were served in accordance with the *Act*.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. I have considered all of the evidence before me in this Decision.

### Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution. I find that not all the claims in this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the

tenant's request to dispute the additional rent increase at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

### Issue to be Decided

- Did the landlord impose an additional rent increase in accordance with the *Act*?

### Background and Evidence

A fixed term tenancy began on January 1, 2005 and reverted to a month to month tenancy as of December 31, 2005. Monthly rent at the start of the tenancy was \$1,350.00 per month and has been increased over the course of the tenancy. The last rent increase was in the amount of \$50.00 and took effect on January 1, 2013 from the previous amount of \$1,520.00. The parties agreed that the tenant paid a security deposit of \$675.00 at the start of the tenancy. The parties disputed whether a pet damage deposit was paid. The tenant stated that \$300.00 was paid, however, the agent stated that the landlord has no record that any pet damage deposit has ever been paid by the tenant. The tenancy agreement does not list a pet damage deposit.

The landlord submitted the Notice of Rent Increase form (the "rent increase form") in evidence. According to the agent the landlord served the rent increase form dated September 27, 2012 on the tenant by placing it into the tenant's mailbox on September 27, 2012. The tenant stated that she likely received the rent increase form on September 30, 2012 and that she is home on a daily basis due to an injury. The rent increase form listed the current amount of rent as of September 27, 2012 as \$1,520.00. The increased amount is listed as \$50.00 effective January 1, 2013 where the new amount of rent would be \$1,570.00. The previous rent increase was in 2010.

The tenant stated that she is disputing that the rent be permitted to be increased due to the rental unit being "uninhabitable".

### Analysis

Based on the oral testimony and documentary evidence before me, and on a balance of probabilities, I find the following.

The allowable rent increase for residential units for 2013 is 3.8%. The previous rent was \$1,520.00 which was increased by \$50.00 to \$1,570.00. 3.8% of \$1,520.00 equals \$57.76. As a result, **I find** the amount the landlord increased the tenant's rent is in accordance with the *Act*.

I find that on the balance of probabilities, the tenant received the rent increase form on or before September 27, 2012. Section 42 of the *Act* states:

**Timing and notice of rent increases**

- 42** (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:
- (a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;
  - (b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.
- (2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.
- (3) A notice of a rent increase must be in the approved form.
- (4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

Based on the above and the testimony, **I find** that the landlord complied with section 42 of the *Act* by providing notice at least 3 months before the effective date of the rent increase and that the notice was in the approved form. Therefore, **I find** the rental increase was imposed in accordance with the *Act* and that tenant's rent remains at \$1,570.00 per month and that this portion of the tenant's application is dismissed as a result.

The tenant's claim that the rental unit is "uninhabitable" is not relevant to the rent increase made in accordance with the *Act*. The tenant is at liberty to apply for compensation or for an order for repairs under the *Act*.

**Conclusion**

I find the rent increase imposed by the landlord was done so in accordance with the *Act* and dismiss this portion of the tenant's application.

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: February 25, 2013

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Residential Tenancy Branch

