



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Country Mobile Home Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, MNR, OPR, MNDC, FF

### Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlords. Both files were heard together.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for outstanding rent, and a request for recovery of the \$50.00 filing fee.

### Background and Evidence

On March 2, 2013 the tenant was served with a 10 day Notice to End Tenancy for nonpayment of \$70.00 rent for the month of March 2013.

The tenant testified that:

- The landlord gave them a notice of rent increase that was later deemed invalid in a dispute resolution hearing that was held on October 9, 2012.

- Since they had already paid the rent increase of \$35.33 for two months, they deducted \$70.00 from the rent payable for the month of March 2013.
- He is therefore asking that the Notice to End Tenancy be canceled.

The landlords testified that:

- They did have their rent increase canceled in a previous hearing, however the decision did not state that the tenant could deduct any money from the rent, it simply stated that the rent would continue at \$320.00 per month.
- The tenants did not have any order allowing them to deduct any money from the rent, they just did it on their own and therefore they were served with the notice to end tenancy.
- They therefore believe that this notice should be upheld and the tenant's application dismissed.
- They request an Order of Possession, a Monetary Order for the outstanding rent and recovery of their filing fee.

### Analysis

The tenants had paid a rent increase of \$35.33 for two months before it was found that the increase did not comply with the Manufactured Home Park Tenancy Act and was set aside.

Section 36 of the Manufactured Home Park Tenancy Residential Tenancy Act states:

### **Amount of rent increase**

**36** (1) A landlord may impose a rent increase only up to the amount

- (a) calculated in accordance with the regulations,
- (b) ordered by the director on an application under subsection (3), or
- (c) agreed to by the tenant in writing.

(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.

(3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

(4) [Repealed 2006-35-11.]

(5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.

Therefore since the landlords did collect an increase that did not comply with section 36 of the Manufactured Home Park Tenancy Act, the tenant did have the right under section 36(5) to deduct the increase from their rent.

### Conclusion

The 10 day Notice to End Tenancy that was served on the tenants on March 2, 2013 is hereby canceled and this tenancy continues.

The landlord's application is dismissed in full without leave to reapply.

I further order that the landlords pay the filing fee of \$50.00, which was waived for the tenant, to the director of the Residential Tenancy Branch.

This decision 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: April 03, 2013

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Residential Tenancy Branch

