



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ARI, O

### Introduction

This hearing dealt with the landlords' application pursuant to section 43(3) of the *Residential Tenancy Act* (the *Act*) and section 23(1)(a) of the *Residential Tenancy Regulation* (the *Regulation*) for approval of a rent increase in excess of the 3.8 % calculated under the *Regulation*.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss the landlords' application with one another. The tenant confirmed that she received a copy of the landlords' dispute resolution hearing package sent by the landlords by registered mail on March 21, 2013. I am satisfied that the landlords served this package and that both parties served their written evidence packages to one another in accordance with the *Act*.

### Issues(s) to be Decided

Are the landlords entitled to increase the tenant's monthly rent beyond the amount prescribed under the *Regulation*?

### Background and Evidence

The current monthly rent for this one bedroom unit in a three-storey rental building constructed in 1984 is \$720.72. Prior to this most recent increase, the last rent increase took effect on October 1, 2008. The landlords are entitled to a 3.8% rent increase in 2013 in accordance with the *Regulation*. The landlords applied for a rent increase from \$720.72 to \$950.00, as they maintained that the 3.8% allowed rent increase would leave this rental unit significantly lower in monthly rental than other similar rental units in this geographic area. As of June 1, 2013 and as per an agreement between the parties, the rent was to increase to \$748.11.

For 2013, the prescribed amount of rent increase allowed under the *Residential Tenancy Regulation* (the *Regulation*) without requiring an application pursuant to section 43(3) of the *Act* is 3.8%. As the landlords' request for an increase in monthly

rent totals 32%, the landlords applied for an additional rent increase pursuant to section 43(3) of the *Act*.

Section 43 of the *Act* reads in part as follows:

***Amount of rent increase***

**43** (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...*

*(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.*

The landlords applied for an additional rent increase in accordance with the provision in section 23(1)(a) of the *Regulation* because they maintained that the rent increase after the 3.8% permitted under the *Regulation* would lead to a monthly rent that would be significantly lower than the rent payable for other rental units similar to and in the same geographic area as this rental unit.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties reached the following final and binding settlement agreement to resolve all disputes between them at this time:

1. Both parties agreed that the monthly rent as of June 1, 2013 will be set at \$820.00, payable in advance on the first of each month.
2. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues in dispute arising out of the landlords' application and this tenancy at this time.

Conclusion

To give legal effect to the settlement agreement reached between the parties at this hearing and as discussed with the parties, I order that the monthly rent for this tenancy is set at \$820.00, as of June 1, 2013. I further order that the new anniversary date for any possible rent increases for this tenancy is set at June 1 of each year. I make these orders pursuant to section 43(1)(b) 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: May 06, 2013

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Residential Tenancy Branch

