



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, FF

### Introduction

This is an application for a monetary order for \$1800.00, and a request for recovery of the \$50.00 filing fee.

The applicant testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on August 30, 2013; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing.

All testimony was taken under affirmation.

### Issue(s) to be Decided

Was there an illegal rent increase imposed upon the tenants?

Are the applicants entitled to a monetary order of \$1800.00?

### Background and Evidence

The applicant testified that:

- They had been renting this unit at \$900.00 per month, however the rental unit was sold to the respondents and they took over possession on May 3, 2013.
- When the new landlords took possession they informed us that the rent would now be \$1200.00 for the month as of May 2013 and then subsequently \$1400.00 for any following months.

- No formal notice of rent increase was ever given to us.
- We agreed in writing to this increase; however we were unaware that the landlords were restricted to an increase of 3.8% under the Residential Tenancy Act.
- We paid the increases to the end of August 2013 and therefore we believe that we've overpaid our rent by \$1800.00 because the landlords did not comply with the Residential Tenancy Act when giving the rent increase.

The respondents did not attend the hearing however they sent written submissions that state the following:

- The tenants had previously given notice in March 2013 to the previous landlord, that they would be vacating the rental unit at the end of April 2013.
- They purchased the rental unit and were supposed to get vacant possession of the unit on May 3, 2013.
- The tenants approached them and asked if they could enter into a residential tenancy contract with us, because they could not find suitable accommodation with all their pets.
- The contract was signed on May 4, 2013.

### Analysis

After reviewing the evidence provided it's my finding that the tenants were in a tenancy agreement with a monthly rent of \$900.00, however it's also my finding that the tenants had given notice to end that tenancy at the end of April 2013.

It is also my finding that the respondents were to get vacant possession of this dispute property on May 3, 2013, however the applicants had not vacated by that date and I accept that they requested a contract from the respondents.

Therefore the agreement that was signed on May 4, 2013 was not an extension of the previous tenancy, it was a completely new tenancy as the applicants should have vacated at the end of April 2013.

Since this was a new tenancy, the parties were free to negotiate whatever rent they felt appropriate, and therefore it's my finding that there was not an illegal rent increase from the previous \$900.00 per month, because as stated above this was completely new tenancy.

In this case it's my finding, after reading the new agreement, that the rent, for the new tenancy, was set at \$1400.00 per month; however the tenants were given a discount to \$1200.00 for the month of May 2013 because the landlords wanted access to the rental unit for doing measurements and repairs.

Therefore it's my finding that the rent has not been illegally increased from \$1200.00 per month to \$1400.00 per month, it was simply discounted a total of \$200.00 for the first month due to the inconvenience caused by the landlords request for access to do repairs.

### Conclusion

This application is dismissed in full without leave to reapply.

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: November 20, 2013

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Residential Tenancy Branch

