



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, CNC, FF

### Introduction

The applicants seek to dispute a rent increase imposed in the Fall of 2012 and to cancel an eviction imposed in a letter from the landlord Mr. A.

It is clear from the tenancy agreement that only Mr. J.S. is the tenant. The applicant Mr. S.C. did not sign the tenancy agreement. He is an occupant only.

It is also clear that the eviction notice the tenant challenges is merely a letter from the landlord dated April 10, 2014 purporting to terminate the tenancy “without cause or reason.” As stated at hearing, a landlord may only end a tenancy by giving notice in the approved form (s. 52 of the *Residential Tenancy Act*). The letter of April 10 was therefore ineffective in ending this tenancy and the tenancy continues until ended by mutual agreement or lawful notice by either party.

### Issue(s) to be Decided

Have the landlords imposed an unlawful rent increase?

### Background and Evidence

The rental unit is a two bedroom basement suite in the landlords’ house. The tenancy started in November 2000 with the prior owner. The respondents became owners in 2012. The rent was \$500.00 when they took over. By a letter dated September 30, 2012 the landlord Mr. S. raised the rent to \$600.00 per month effective November 1.

The tenant did not dispute the increase, nor, I find, did he consent to it. He paid the new \$600.00 monthly until earlier this year, when he determined that rent increases were restricted by law under the *Residential Tenancy Act*.

The landlord Mr. S. was simply was not aware of the law.

### Analysis

Part 3 of the *Residential Tenancy Act* regulates rent increases. It provides “a landlord must not increase rent except in accordance with this Part” and sets out a mandatory form to be used and imposes a restriction on the amount and frequency of rent increases. It provides that “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.”

In this case the landlord has not complied with Part 3. The tenant is entitled to deduct the increase from rent or otherwise recover the increase.

The tenant seeks only the difference between the lawful amount the landlord could have increased the rent at that time; that being 4.3%, and the \$100.00 per month increase he actually paid.

I find that in September 2012 the landlord was entitled to increase the rent by only 4.3%, and amount of \$21.50. The tenant is entitled to recover the \$78.50 overpayment each month from November 2012 to May 2013, which I calculate to be \$1491.50.

The tenant has not sought a monetary award. He is entitled to “deduct the increase from rent” however and I leave him to do so. He is free to re-apply to obtain a monetary order for any amount remaining un-repaid.

As stated at hearing, the landlords are free to consider another rent increase and I suggest they seek the assistance of the Residential Tenancy Branch in doing so.

### Conclusion

The tenant’s application is allowed.

The tenant is entitled to recover the \$50.00 filing fee for this application. I authorize him to reduce his next rent due by \$50.00 in full satisfaction of the fee.

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: June 17, 2014

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Residential Tenancy Branch

