



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNR OPR DRI O FF

### **Introduction:**

This was an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- a) To cancel a Notice to End the Tenancy for non-payment of rent or for Cause both dated August 3, 2014 pursuant to section 46;
- b) To dispute a rent increase made without notice contrary to sections 41, 42 and 43; and
- c) Recovery of the filing fee pursuant to section 72 of the Act.

### **SERVICE:**

I find that the Notices to End a Residential Tenancy were served personally and the landlord agreed he received the Application by registered mail from the Tenant on August 7, 2014. I find the documents were served pursuant to sections 88 and 89 of the Act.

**Issues:** Is the tenant entitled to any relief? Has the tenant proved on the balance of probabilities that there was an illegal rent increase and they are entitled to a rent refund and to recover the filing fee for this application?

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy began on November 1, 2012. The current rent is \$1545 (raised from \$1500 on April 2014 without legal written notice). The tenant paid a security deposit amounting to \$750. The parties agreed the tenant had vacated and the only issue is the disputed rent increase. The landlord honestly admitted that he had raised the rent from \$1500 to \$1545, effective April 1, 2014 without giving the required three month Notice pursuant to section 42 and 43 of the Act.

### **Analysis:**

The Notices to End a Residential Tenancy are not longer in issue as the tenant vacated. I find section 42(2) states a landlord must give the tenant written notice of a rent increase at least three months in advance of the effective date. I find the undisputed evidence is that the landlord gave the tenant no written notice and she paid \$45 a month in increase from April to July (4 months) but paid no rent for August although they did not vacate until August 31, 2014.

Section 43(5) of the Act provides that when a landlord collects an illegal increase, the tenant may recover it. I find the tenants are entitled to recover \$180 in rent refund plus the \$50 filing fee for this application.

As discussed with the parties in the hearing, the tenant must supply their forwarding address in writing to the landlord who must deal with their security deposit in accordance with section 38 of the Act.

**Conclusion:**

I find the tenants entitled to a monetary order for \$230. As the tenants did not pay rent for August, I find this may be deducted from the \$1500 rent owed for August in accordance with section 43(5).

**I HEREBY ORDER that the amount the tenants owe for rent for August 2014 is reduced to \$1270.**

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: October 02, 2014

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Residential Tenancy Branch

