



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WV Income Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MT DRI CNR O

### Introduction

This hearing dealt with the tenants' application to dispute a rent increase, as well as to cancel a notice to end tenancy and an extension of time to make their application to cancel the notice. The tenants also applied for clarification regarding "charge-back" amounts that the landlord claims the tenants owe. The tenants and an agent for the landlord participated in the teleconference hearing.

I did not hear evidence or consider the validity of the "charge-back" amounts, the landlord had not made an application to claim those amounts as money the tenants owed the landlord.

At the outset of the hearing, the landlord confirmed that they had received the tenants' evidence. The landlord did not submit any documentary evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Preliminary Issue – Extension of Time

The tenants were served with a notice to end tenancy for unpaid rent on September 18, 2014, and made their application to cancel the notice on September 24, 2014, one day after the deadline to apply. The tenants stated that the reason they did not apply in time was because they had set up a meeting with the landlord to resolve the issue, but the landlord did not show up for the meeting. The tenants then immediately applied to cancel the notice. I determined it was appropriate to grant the extension of time, and proceeded with the application.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Did the landlord properly increase the tenants' rent?

### Background and Evidence

#### *Notice to End Tenancy for Unpaid Rent*

On September 18, 2014 the landlord served the tenants with a notice to end tenancy for unpaid rent. The notice indicated that the tenants failed to pay \$808.40 that was due on September 1, 2014. Together with the notice the landlord served the tenants with a statement of account indicating that as of August 31, 2014 the tenants owed \$725.40, and on September 1, 2014 they owed a further \$734.50 in rent. The landlord credited the tenants \$701.50 for a payment received on September 2, 2014, but added two late fees of \$25 each, for a total outstanding amount of \$808.40. In the hearing the landlord explained that the balance outstanding on August 31, 2014 represented rents that had been shorted plus two charge-backs to the tenants for electrical work done at their site.

#### *Rent Increases*

Prior to November 1, 2013 the tenants' rent was \$701.50. The landlord stated that in July 2013 they mailed out notices of rent increase to everyone in the park. The landlord acknowledged that they do not have a copy of the notice of rent increase sent to the tenants, and the only evidence they have that the tenants were mailed their notice is a list of tenants. The landlord did not submit this list as evidence in the hearing. The tenants stated that they did not receive the notice of rent increase and knew nothing about it until January 2014, when the landlord's office informed the tenant that there was an amount of rent outstanding. The tenants stated that they told the landlord's office that they never received a notice of rent increase, and they requested a meeting with the landlord, but the landlord cancelled the meeting. The landlord confirmed that the tenants informed them that they never received the notice of rent increase.

On July 25, 2014 the landlord served the tenants with a notice of rent increase which indicated that the tenants' rent would increase from \$734.50, effective November 1, 2013, to \$755 effective November 1, 2014. The tenants have continued to pay \$701.50 in monthly rent, on the basis that they were never served with the 2013 notice of rent increase, and therefore their rent could not be increased to \$755 in 2014.

### Analysis

### *Notice to End Tenancy for Unpaid Rent*

I find that the notice to end tenancy for unpaid rent is not valid. The landlord confirmed that a portion of the amount claimed on the notice as unpaid rent was not rent but a “charge-back” for electrical work done, as well as for two late rent fees. In a notice to end tenancy for unpaid rent, a landlord may not claim any fees or amounts greater than the rent owed, aside from utilities, which are dealt with separately. If the landlord claims an amount greater than the rent owed, the notice will be invalid.

### *Rent Increases*

I find that the landlord did not properly increase the tenants’ rent, as they did not provide sufficient evidence to establish that they served the tenants with the notice of rent increase effective November 1, 2013. Because the tenants were not served with first notice of rent increase, the tenants’ rent remains at \$701.40 until such time as the landlord serves the tenants with a new notice of rent increase that complies with the Act. Any new rent increase must be increased within the allowable amount and will not take effect until at least three full months after the notice is served.

### Conclusion

The notice to end tenancy for unpaid rent dated September 18, 2014 is cancelled, with the effect that the tenancy continues.

The landlord did not properly increase the tenants’ rent, and the current monthly rent is therefore \$701.40.

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: November 18, 2014

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Residential Tenancy Branch