



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding KINGS COURT INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: DRI RR FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To find his 2014 rent increase did not comply with the Act and to obtain an Order for a rebate of rent to recover the illegal increase in rent pursuant to section 43(5).
- b) To recover the filing fee for this application.

### **SERVICE**

Both parties attended the hearing and the tenant provided evidence that he had served the landlord with the Application for Dispute Resolution by registered mail. The landlord agreed he had received them as stated. I find the documents were served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

### **Preliminary Issue:**

The landlord's name was stated incorrectly on the Application. The tenant said he had to do a search in Land Titles to find it. The landlord said that the name on the Notice of Rent Increase was the name under which the landlord does business and he requests it be amended on the Decision and Order. I find the evidence is that the landlord uses a company name in the business of being a landlord so the amendment is granted.

### **Issue(s) to be Decided:**

Has the tenant proved on the balance of probabilities that there was an increase in his rent that did not comply with the Act and that he is entitled to a rebate for the excess paid and to recover the filing fee?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to present evidence and make submissions. The tenant said he has been a tenant in this building

since June 15, 1992, his rent in 2014 was \$691 and he paid a security deposit of \$297. On April 30, 2014, he found a Notice of Rent Increase posted on his door increasing his rent by \$29 a month effective August 1, 2014. He has paid the increased rent of \$720 since that time to the present. He contends that the legal increase under the Act for 2014 and Regulations was a maximum of 2.2% which would have been \$15.20. He requests recovery of the additional \$13.80 which he overpaid each month. He submitted that the Notice of Rent Increase was not valid so he should actually recover the whole \$29 extra paid for each month. He also said the Rent Increase seemed to be contrived as he saw no other Notices of Rent Increase on other tenant's doors except for one across the hall where the occupant may be an employee of the landlord.

The landlord said he had made a mistake in the calculation, thinking it was 2.2% + 2% for 2014 and agrees that it was incorrect. He said other Notices were served but may have been taken down earlier as this tenant did not arrive home until late to get his Notice.

In evidence is the disputed Notice of Rent Increase, receipts for rent paid and statements of the tenant.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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**Analysis:**

In section 43, the *Residential Tenancy Act* provides that an increase in rent may only be imposed up to the amount calculated in accordance with the Regulations. The amount for 2014 was 2.2%. I find the tenant's rent of \$691 could only be increased by \$15.20 in 2014 but was increased by \$29. Therefore I find the tenant was overcharged \$13.80 for each month from August 2014 to January 2015 (6 months) for a total of \$82.80. I find the landlord's evidence agreed with these facts and that he agreed the tenant had paid the increased rent for 6 months. Therefore I find the tenant entitled to a rebate of \$82.80.

Although the tenant contended that the Notice of Rent Increase had not been valid so he might be entitled to a refund of the total of the increase paid or \$29 a month, I find the Act does not support this contention. Section 43(5) states that if a landlord collects a rent increase that does not comply with section 43, the tenant may *deduct the increase from rent* or otherwise recover the increase.

**Conclusion:**

I find the tenant entitled to a rent rebate of \$82.80 plus \$50 to recover his filing fees.

**I HEREBY ORDER THAT the tenant's rent with the legal increase is \$706.20 commencing February 1, 2015.**

**I HEREBY ORDER THAT the tenant is granted a rebate of \$132.80 and may recover this by deducting it from his legal rent for February 2015 only, making his February 2015 rent \$573.40.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 06, 2015

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Residential Tenancy Branch

