



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      DRI, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to dispute an additional rent increase.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled cancel a rent increase and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 35, 36, 60, and 65 of the *Manufactured Home Park Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the tenancy began in 2007. The parties also agreed that until October 1, 2015 the tenant had paid \$250.00 per month rent and effective October 1, 2015 the tenant has paid \$300.00 per month.

The tenant submitted into evidence a letter dated May 27, 2015 from the landlord. In this letter the landlord proposed that they would like to increase the tenant's rent to \$300.00 per month effective October 1, 2015. The letter asked for the tenant to sign the letter showing that the tenant agreed to the increase.

Both parties confirmed that the tenant had not signed the letter.

### Analysis

Section 35(2) of the *Act* states a landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase and a notice of a rent increase must be in the approved form.

Further Section 36(1) of the *Act* states a landlord may impose a rent increase only up to the amount

- (a) calculated in accordance with the regulations,
- (b) ordered by the director on an application, or
- (c) agreed to by the tenant in writing.

Section 36(3) states in the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

The Residential Tenancy Branch website states that the annual allowable rent increase for increases imposed in 2015 was 2.5%. In the case of manufactured home park rents the landlord is also allowed to pass through additional proportional costs if specific operating costs have increased.

In the case before me, I find the allowable increase without any proportional pass through for this tenancy in 2015 would have been \$6.25 but the landlord has been collecting an additional \$50.00 per month.

Based on the evidence and testimony of both parties, I find the landlord has failed to obtain agreement in writing from the tenant for a rent increase over the annual allowable rates; that the landlord has imposed a rent increase in excess of the annual allowable rates without an order from the director allowing a greater increase; and that the landlord has failed to provide notice of the rent increase in the approved form.

As a result, I find the tenant is not required to pay any rent increases based on the letter of May 27, 2015.

Section 36(5) of the *Act* states that if a landlord collects a rent increase that does not comply with sections 35 or 36 the tenant may deduct the increase from rent or otherwise recover the increase.

Conclusion

Based on the above, I cancel the landlord's rent increase and order the rent of \$250.00 per reinstated. I order also that the tenant may deduct \$100.00 from a future rent payment for an overpayment of rent for the months of October and November 2015.

As the tenant was successful in his Application for Dispute Resolution I also order the tenant may deduct an additional \$50.00 from a future rent payment for the cost of the filing fee for his Application for Dispute Resolution.

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 26, 2015

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Residential Tenancy Branch

