



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MISS NELSON PARK and 076116 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI, OLC, MNDC, FF

### Introduction

This hearing was convened in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for the following reasons: to dispute an additional rent increase; for the Landlords to comply with the *Manufactured Home Park Tenancy Act* (the “Act”), regulation or tenancy agreement; for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the filing fee.

The Tenant appeared for the 30 minute hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. There was no appearance for the Landlords named on the Tenant’s Application or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents for this hearing.

The Tenant testified that he had served notice of this hearing and his Application individually to the three parties for the Landlord by registered mail. He sent this to the address of the Landlord detailed on the notice of rent increase that was the subject to this dispute. Therefore, I find the Tenant was served pursuant to Sections 82(1) (c) and 83(a) of the Act. The hearing continued to hear the undisputed evidence of the Tenant as follows.

### Issue(s) to be Decided

Is the rent increase imposed on the Tenant for January and February 2016 illegal?

### Background and Evidence

The Tenant testified that this tenancy started more than ten years ago. The Tenant was unsure of what the starting rent amount for the site was but testified that in March 2015 his rent amount was increased to \$294.00 payable on the first day of each month.

The Tenant explained that although he did not agree with this increase he accepted the amount and continued to pay \$294.00. However, on November 10, 2015 the Tenant received a typed letter from the Landlords requesting to increase his rent from \$294.00 to \$314.00, for an increase of \$20.00.

The Tenant testified that he did not sign the letter and informed the Landlord that it was illegal because it was not served to him using the proper approved form. The Tenant testified that he then received a proper notice of the rent increase on the approved form in December 2015 which detailed a rent increase of \$20.00 effective on January 1, 2016, even though it was dated September 25, 2015.

The Tenant stated that he again informed the Landlord that the amount stipulated and the effective date it was to take effect was incorrect pursuant to the Act. However, despite this, the Landlords proceeded to deduct \$314.00 from the Tenant's bank account without the Tenant's consent. The Tenant explained that the bank had made an error releasing this amount to the Landlord and he is taking this matter up separately with his bank.

The Tenant testified that by the time he discovered this error the Landlords had taken a total of \$40.00 from his bank account which he now seeks to recover in this Application. The Tenant explained that in March 2016, the manufactured home park changed ownership and he informed the new owners of this dispute that they could either be a party to it to take part in it, or they could keep his rent to \$294.00. The Tenant testified that the new owner Landlord agreed to keep his rent at \$294.00 and this is the amount that he has continued to pay since March 2016 pending the outcome of this hearing.

### Analysis

Part 4 of the Act explains the rent increase provisions that parties must follow during a tenancy. Section 36(1) (a) of the Act allows a landlord to increase a tenant's rent only up to the amount calculated in accordance with the Manufactured Home Park Tenancy Regulation (the "Regulation").

Section 32(2) of the Regulation provides for the calculation that is used to determine the percentage amount of a rent increase each year. For 2016, this has been determined to be 2.9%. Therefore the maximum amount of rent increase allowed pursuant to the Act and the Regulation on \$294.00 is \$8.53 plus any government levies and public utility fees. The Landlord must use the most current approved form(s) (RTB-45 and/or RTB-11) to legally impose the rent increase on the Tenant.

In this case, I accept the undisputed evidence of the Tenant that the date of the last rent increase imposed by the Landlords was March 2015. Therefore a rent increase could not have been imposed until March 2016. Section 35 of the Act provides that a landlord must give at least three clear months of notice before the effective date of the increase. I also accept the Tenant was served with a notice of rent increase in December 2015 and therefore the new correct amount could not have been effective until April 1, 2016. As a result, I am only able to conclude based on the Tenant's undisputed evidence that the Landlords took from the Tenant an illegal rent increase of \$20.00 per month for January and February 2016 which was contrary to the Act and Regulation.

Based on the foregoing, I find that the Tenant is entitled to recover the illegal rent increase from the Landlord for \$40.00. If the new owner Landlord wants to increase the Tenant's rent they must do so pursuant to the Act and Regulation and use the approved form. A landlord is responsible for apprising themselves of their rights and responsibilities with respect to the rent increase provisions.

As the Tenant has been successful in this Application, he may recover the \$100.00 filing fee. As a result, the Tenant is awarded \$140.00 for this Application. The Tenant is issued with a Monetary Order for this amount which must be served on the Landlords and may be enforced through the Small Claims Division of the Provincial Court as an order of that court. The Landlords should also be informed that the Tenant may also deduct this from a future instalment of rent pursuant to Section 65(2) of the Act.

### Conclusion

The Landlords did not comply with the rent increase provisions of the Act and Regulation. The Tenant's Application to recover \$140.00 inclusive of the filing fee is granted. The Tenant is required to continue to pay rent in the amount of \$294.00 until that amount is changed pursuant to the Act. 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: August 15, 2016

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Residential Tenancy Branch