



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC DRI FF

### Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy, as well as to dispute a rent increase. The tenant called in to the teleconference hearing but the landlord did not.

The tenant stated that on August 16, 2016 he personally served the landlord with the application for dispute resolution and notice of hearing.. I accepted the tenant's evidence regarding serving the landlord with notice of the hearing, and I proceeded with the hearing in the absence of the landlord.

### Issue(s) to be Decided

Is the notice to end tenancy for cause dated August 1, 2016 valid?  
Did the landlord increase the tenant's rent contrary to the Act and regulation?  
What is the current rent?

### Background and Evidence

The tenant stated that he first began occupying the rental unit, a basement suite in the landlord's house, on or about April 15, 2016. The tenant stated that the rent was \$650.00. The tenant stated that he paid \$650.00 for June 2016 rent but the landlord then stated that the rent had increased to \$700.00. The tenant paid \$750.00 in July 2016, and then paid \$700.00 per month after that. The landlord did not serve the tenant with a Notice of Rent Increase in accordance with the Act. The tenant did not agree in writing to the increase in rent.

The landlord later informed the tenant that the rent was increasing again, to \$1,200.00 per month. On August 8, 2016 the landlord served the tenant with a notice to end tenancy for cause. The landlord did not check off any of the boxes to indicate a valid reason for ending the tenancy under section 47 of the Act. In the "Details of the Cause" section of the notice, the landlord wrote, "Tenant cannot afford the new rent that was set by the landlords."

### Analysis

The notice to end tenancy for cause is not valid, as it does not indicate a valid cause under section 47 of the Act to end the tenancy. I therefore cancel the notice to end tenancy for cause dated August 1, 2016.

The landlord did not increase the rent in accordance with sections 41 to 43 of the Act. When a landlord does not comply with these requirements and the tenant has not agreed in writing to increase the rent, the rent increase is not valid.

The fact that the tenant paid the increase does not mean the tenant agreed in writing. A tenant who overpays rent is entitled to deduct any overpayment from rent. The tenant is therefore entitled to recovery of the \$50.00 overpayments he made from June through October 2016.

Because the rent increase was not valid, the current rent remains at \$650.00 until such time as the landlord increases it in accordance with the Act and regulation or the tenant agrees in writing to an increase in rent.

As the tenant's application was successful, he is entitled to recovery of his \$100.00 filing fee for the cost of his application.

### Conclusion

The notice to end tenancy for cause dated August 1, 2016 is cancelled. The tenancy will continue until it ends in accordance with the Act.

The tenant overpaid rent by \$250.00. He is entitled to recovery of that amount, as well as recovery of his \$100.00 filing fee. The tenant may deduct \$350.00 from his next month's rent. Therefore, the current rent is \$650.00 and the tenant may deduct \$350.00 and pay a balance of \$300.00 for his next month's rent.

The current rent is \$650.00 and will remain at that amount until such time as it is increased in accordance with 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 *Residential Tenancy Act*.

Dated: October 5, 2016

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Residential Tenancy Branch