Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RI MNDC OLC RP RR FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on November 18, 2016. That application indicated the Tenant was seeking the following Orders: disputing a rent increase; for money owed or compensation for damage or loss under the *Act,* regulation or tenancy agreement; Order the Landlord to comply with the *Act,* Regulation, or tenancy agreement; make repairs to the unit, site or property; reduced rent for repairs or services and facilities agreed upon but not provided; and to recover the cost of the filing fee.

Due to an administrative error, the Tenant's application was originally scheduled to be heard with the Landlord's application for an additional rent increase on December 12, 2016. The Tenant's application was filed after the Landlord's application. The issues listed on the Tenant's application were not related to those listed on the Landlord's application. Therefore, the Tenant's application was not heard on December 12, 2016 and was adjourned to this proceeding on January 19, 2017.

On December 28, 2016 the Tenant filed an Amendment to an Application for Dispute Resolution seeking to increase her monetary order request to: $1,380.00 for the loss of use of the dishwasher; $4,200.00 for loss of quiet enjoyment.

The hearing was conducted via teleconference and was attended by the Landlord and the Tenant. Each person gave affirmed testimony. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process; however, each declined and acknowledged that they understood how the conference would proceed.

Despite both parties acknowledging they were aware of the expectations for conduct during the hearing, and despite both of them having attended at least two dispute resolution hearings in the past, neither party conducted themselves in an appropriate manner during this proceeding. Both were given several warnings about their conduct before being cautioned they would be disconnected from the hearing if they continued to act inappropriately.

The Landlord confirmed receipt of the application; notice of hearing documents; amended application; and evidence served by the Tenant. The Tenant confirmed receipt of the evidence served by the Landlord and noted that her documents had been served upon the Landlord's agent. Each party affirmed they served the other with copies of the same documents that they had served the Residential Tenancy Branch (RTB). As such, I accepted the relevant submissions from both parties as evidence for these proceedings.

The Tenant submitted copies of a 1 Month Notice to end tenancy and a 2 Month Notice to end tenancy which were served upon her by the Landlord. Those Notices were the subject of a hearing conducted by a different Arbitrator on January 16, 2017. At the time this hearing commenced on January 19, 2017, neither party knew the outcome of that proceeding as they were awaiting receipt of the Arbitrator's written decision.

I informed both parties I could not consider evidence relating to the aforementioned Notices to end tenancy and I could not issue orders relating to future repairs or compliance with the *Act,* regulation, or tenancy agreement at this time; as the tenancy may have ended in accordance with one of those Notices. As such, I dismissed the Tenant's requests relating to those items. If the tenancy continues the Tenant will be at liberty to file another application if repairs are still required. I continued to hear the matters relating to the requests to dispute a rent increase; reduced rent; monetary compensation for lack of past repairs; and for loss of quiet enjoyment up until this hearing date.

Both parties were provided with the opportunity to present relevant oral evidence, to ask questions, and to make relevant submissions. Although I have considered all relevant oral and documentary submissions, not all are mentioned in this Decision.

Issue(s) to be Decided

1. Was the Tenant served a rent increase that did not comply with the legislated amount for an increase*?*
2. If so, is the Tenant entitled to the return of increased amounts paid?
3. Has the Tenant proven entitlement to monetary compensation for lack of repairs and/or loss of quiet enjoyment?

Background and Evidence

Each party confirmed the details of the tenancy were the same as they submitted during the December 12, 2016 hearing and as noted in my December 14, 2016 Decision as follows:

> *The parties entered into a one year written fixed term tenancy agreement which began in January 2009. Rent is payable on the first of each month and began at $1,900.00 per month. Rent was subsequently increased in 2014 and 2016 with the latest increase effective January 1, 2016 raising the rent to $2,100.00 per month.*
>
> [Reproduced as written]

I heard the Tenant state she was now seeking monetary compensation comprised of the following:

- The Tenant initially applied for $330.72 for an illegal rent increase which increased the rent by $85.00 from $2,015.00 to $2,100.00 effective January 1, 2016. The Tenant stated the Landlord told her he would not be increasing her rent the following year if she agreed to this increase. She said she agreed to the increase verbally and by email and then learned the Landlord filed an application for an additional rent increase several months later. The Tenant argued the allowable increase was only 2.9% ($58.44) so her rent should have only increased to $2,073.44. I heard the Tenant state she was seeking the $26.56 monthly overpayment from January 1, 2016 up to and including January 1, 2017 for the total amount of $345.28.
- $126.00 for reimbursement of the cost to repair the refrigerator as per the receipt dated August 11, 2016 submitted into evidence. She stated the Landlord refused to fix the fridge so after 12 months of water pooling at the bottom of the refrigerator and her produce (fruits and vegetables) spoiling she paid to have it repaired.
- $250.00 for compensation for her produce going bad based on a percentage of the Tenant's knowledge of what her grocery bills were for a 12 month period. No grocery receipts were submitted into evidence.
- $68.25 for reimbursement for the repair technician to diagnose the problem with the dishwasher as per the receipt dated October 5, 2016 submitted into evidence. The repair estimate to repair the dishwasher was $500.00, which was more than purchasing a new one. The Tenant stated the Landlord refused to repair or replace the dishwasher.
- $500.00 which was increased to $1,380.00 on the amended application to compensate the Tenant for the 138 days of not having a dishwasher, after it broke in September 2016. The Tenant based her claim on $10.00 per day which she stated was equal to one hourly rate of pay

for a job as a dishwasher. I heard her state she was a single mom of three children, she worked two jobs, and not having a dishwasher put a burden on her and her family dynamics.

- $100.00 for compensation for the incorrectly installed kitchen faucet. The Tenant submitted the Landlord replaced the broken faucet with the cheapest type of faucet that was designed to be hooked up differently than the pre-existing faucet. She asserted that when it was installed the new faucet was left loose and flapping. She said the Landlord's agent, whom she always dealt with, told her the Landlord refused to authorize enough money for the proper repair because he was planning to renovate the kitchen.
- $4,200.00 for loss of quiet enjoyment for being harassed and repeatedly served false eviction notices. The Tenant asserted the Landlord's emails were intimidating and were putting pressure on her to move or increase her rent to amounts higher than legally allowed.

The Landlord confirmed the Tenant dealt directly with his agent for repair and maintenance issues. The Landlord disputed all of the items claimed by the Tenant as summarized below:

- The Landlord stated he acknowledged that the amount of the rent increase imposed in January 2016 was above the legislated amounts for 2016. He then asserted the amount was not more than compounded allowable amounts totaled for each of the previous years of the tenancy during which he did not increase the rent. He noted that he used the required form and served it upon the Tenant three months prior to the effective date of the increase. The Landlord argued the Tenant accepted the rent increase because she has paid the increased amount.
- I heard the Landlord state the damage to the refrigerator was caused by the Tenant's neglect to maintain the water filter. He stated he considered changing the water filter as being equivalent to changing a light bulb and would be the Tenant's responsibility. The Landlord confirmed he refused to pay the repair receipt and argued he was not notified of the problem with the refrigerator immediately.
- The Landlord stated the dishwasher was brand new in 2010 and argued industry standards state the life of a dishwasher is between 9 and 16 years. He said he heard about the Tenant's complaints regarding the dishwasher in late 2016 and installed another new dishwasher on January 7, 2017. The Landlord pointed to an email in evidence dated December 21, 2016 where he suggested the Tenant pay half of the cost of a new dishwasher to expedite the purchase and she refused.
- The Landlord stated the faucet was replaced with a different type of faucet. He submitted the problem with the faucet was only an aesthetic problem not a functional problem. He stated the Tenant alleged the faucet was leaking for a long time; however, he asserted the Tenant had yanked the faucet and broke the seal. His agent attended the unit and re-sealed the faucet and it continues to be functional as it turns the water off and on.
- The Landlord disputed the claim for loss of quiet enjoyment and argued he had never compromised the Tenant's privacy. He stated he has always given the required 24 notice prior to entry. He stated the Notices to end tenancy were not issued to intimidate the Tenant; rather, it just so happened they were issued in December. He asserted that if the dishwasher was that big of a problem for the Tenant she would have agreed to pay half to fix the dishwasher.

In closing, the Tenant stated she did not pull out the faucet; it simply came loose with constant use having to do dishes. She confirmed the Landlord's agent attended afterwards and installed a silicone, or adhesive, to stabilize the faucet. The dishwasher was replaced on January 7, 2017; however, it was replaced with one that was dented which prevents the door from staying open. The Tenant pointed to the emails submitted in her evidence which she interpreted as being aggressive, intimidating, and harassing.

At page 5 of the Tenant's evidence was one of the emails referenced above which was written by the Landlord and forwarded to the Tenant by the Landlord's agent. That email states, in part, as follows:

> *…I am aware that house maintenance has been sub-optimal and that things are starting to break down but no significant investment will take place without a net rent increase…*

…Status quo is to await court/arbitration decision and follow up on legal proceedings but I am willing to offer a few amicable alternatives right away. Decision is yours to make,

Choice 1, Vacant premises at the earliest opportunity. I can even refund partial rent for the month of October if desired. RTB stays out of it and we both save time and money.
Choice 2, Sign up on a new lease for January 2017 in the amount of $3000/m and allow for kitchen remodel + house repairs + re-painting by years end. Work would take place at mutually agreed time during months of November/December 2016 but clearly presents an inconvenience to regular house usage especially while kitchen gets a face-lift…

Analysis

Section 62 (2) of the *Act* stipulates that the director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this *Act*. After careful consideration of the foregoing; documentary evidence; and on a balance of probabilities I find pursuant to section 62(2) of the *Act* as follows:

Section 7 of the *Act* provides as follows in respect to claims for monetary losses and for damages made herein:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

7(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 67 of the Residential Tenancy *Act* states that without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Policy Guideline 16 provides that the party making the claim for damages must satisfy each component of the following: the other party failed to comply with the *Act,* regulation or tenancy agreement; the loss or damage resulted from that non-compliance; the amount or value of that damage or loss; and the applicant acted reasonably to minimize that damage or loss. I concur with this policy and find it is relevant to the Landlord's application for Dispute Resolution.

In determining the matters regarding the January 1, 2016 rent increase of $85.00 per month, I have considered sections 40, 41, 42, and 43 of the *Act* (copied at the end of this Decision) and Residential Tenancy Policy Guideline 37 which provides, in part, that payment of a rent increase in an amount more than the legislated amount does not constitute a written agreement to a rent increase in that amount.

While I accept the Tenant had communicated with the Landlord's agent, via email, that she would agree to the $85.00 per month increase if the Landlord agreed not to increase the rent the following year, I do not find that email exchange or the fact the Tenant began paying the increased amount, met the requirement of an agreement of an additional rent increased provided by section 43(1)(c) of the *Act* and Policy Guideline 37. I make that finding in part, as the terms of that alleged agreement were never written on paper and neither the Tenant nor the Landlord put their signatures to that agreement. In addition, by his own actions, the Landlord did not uphold the terms described in that email as he filed an application for an additional rent increase ten months after the effective date of the Notice of Rent Increase on October 21, 2016.

It was undisputed that the $85.00 per month increase was above the 2.9% legislated amount. I do not accept the Landlord's submissions that the increase should be allowed as it was equivalent to the total amount of the allowable annual increases during the life of this tenancy, if those increases were issued every year. Neither the *Act* nor the Regulations provides a landlord the ability to issue cumulative rent increases. Rather, the *Act* and Regulations specifically stipulate annual rent increases must not be imposed for more than the legislated amounts or unless ordered by an arbitrator upon hearing a landlord' application for an additional rent increase. Accordingly, I find the January 1, 2016 rent increase to be in breach of section 43 of the *Act* and section 22 of the Regulations and I grant the Tenant`s application in the amount of **$1,105.00** ($85.00 increase amount x 13 months January 2016 up to and including January 2017).

I then turned my mind to the Tenant`s requests for monetary compensation for reimbursement of appliance repairs. I considered section 32 of the *Act* which requires a landlord to maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I also considered Residential Tenancy Policy Guideline 1 which provides that the Landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the tenant.

The undisputed evidence was the Tenant informed the Landlord's agent that the refrigerator; dishwasher; and faucet were all in need of repairs. There was insufficient evidence to prove the repairs were required due to deliberate actions or neglect of the Tenant; rather, I conclude the evidence supported the repairs were due to the Landlord's failure to maintain them. The Landlord even acknowledged in his email that he was "*aware that house maintenance has been sub-optimal".* However, despite the Tenant's requests for repairs the refrigerator remained unrepaired from the summer of 2015 until August 11, 2016 when the Tenant paid to have it repaired at a cost of $126.00.

The dishwasher remained unrepaired for 138 days between September 2016 and when a replacement dishwasher was installed by the Landlord on January 7, 2017. The Tenant took it upon herself to obtain an estimate for repairs for the dishwasher which was completed on October 9, 2016 at a cost to the Tenant of $68.25. The estimate determined the repairs would cost in excess of $500.00.

I then considered section 33(1) of the *Act* defines **"emergency repairs"** as repairs that are: (a) urgent, (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and (c) made for the purpose of repairing major leaks in pipes or the roof; damaged or blocked water or sewer pipes or plumbing fixtures; the primary heating system; damaged or defective locks that give access to a rental unit; the electrical systems; or in prescribed circumstances, a rental unit or residential property.

In addition, section 33(3) of the *Act* stipulates that a tenant may have emergency repairs made only when all of the following conditions are met: (a) emergency repairs are needed; (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs; (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

Section 33(5) provides that a landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant claims reimbursement for those amounts from the landlord, and gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

Based on the above, I find there was sufficient evidence to prove the Landlord was in breach of section 32 of the *Act* and in breach of Policy Guideline 1 for failing to repair and/or maintain the refrigerator and dishwasher. I do not accept the Landlord's submissions that changing a refrigerator inline water filter or unplugging a refrigerator water line is equivalent to changing a lightbulb as Policy Guideline 1 clearing states maintenance of appliances is a landlord's responsibility. Notwithstanding the Landlord's

submissions the dishwasher had been replaced in 2010, the fact remained the dishwasher was not working as of September 2016.

The undisputed evidence was the refrigerator had been leaking water which formed pools of water; therefore, I conclude the refrigerator repair met the definition of an emergency repair, pursuant to section 33(1) of the *Act.* Accordingly, I find the Tenant had the authority to have the refrigerator repaired as an emergency repair; costs for which the Landlord must reimburse the Tenant, pursuant to section 33(5) of the *Act*. Accordingly, I grant the Tenant's claim for refrigerator repair costs in the amount of **$126.00**, pursuant to section 67 of the *Act.*

In response to the Tenant's claim of $250.00 for loss of produce I find the Tenant submitted insufficient evidence to prove the actual amount claimed as there were no receipts or documents submitted into evidence. Furthermore, I find the Tenant has failed to prove she did what was reasonable to mitigate the alleged loss of produce as required by section 7 of the *Act.* If the Tenant's produce had been spoiling as a result of the water leak in the refrigerator she ought to have sought a remedy when she first began to notice her food was spoiling and not several months to a year later. Therefore, the claim for $250.00 for spoiled produce is dismissed, without leave to reapply.

The evidence was the dishwasher simply stopped working; accordingly, I find there was insufficient evidence to prove the dishwasher repair met the definition of emergency repair. I make this finding in part as the dishwasher was not leaking water, nor was it causing any other emergency repairs. As such I find the Tenant had no authority under the *Act* to commission an estimate for repair for which the Landlord would be responsible. As such, I dismiss the claim of $68.25 for the diagnostic relating to the dishwasher, without leave to reapply.

The evidence relating to the faucet repair indicated the previous faucet was leaking and was used until the replacement faucet was installed. There was insufficient evidence before me to prove the faucet was inoperable for any amount of time. Rather, the evidence was that the replacement faucet was of lesser quality and was initially installed in a manner that allowed the faucet to be loose and flop around. From the Tenant's submissions the agent returned and applied a silicone or glue to stabilize the faucet; however, there was not clear evidence as to how long the faucet flopped around loose.

In the absence of evidence to prove the contrary, I accept the Landlord's submissions the Tenant has had full use of the faucet and while the replacement faucet may not be as cosmetically appealing as the previous one it still operated as a faucet was designed to do, that is to say it turns the water on and off. Accordingly, I find there was insufficient evidence to prove the claim of $100.00 relating to the installation of the faucet and the claim is dismissed, without leave to reapply.

Regarding the Tenant's request for reduced rent for repairs not completed, this section of an application for Dispute Resolution relates to future reduced rent for repairs not yet completed. As all of the repairs relating to items listed in this application have been completed prior to the January 19, 2017 hearing, I find this request to be moot and it is dismissed, without leave to reapply.

In response to the Tenant's request for compensation for the loss of use of the dishwasher of $1,380.00 and the request for $4,200.00 for loss of quiet enjoyment, I referred to section 28 of the *Act* which states: a tenant is entitled to quiet enjoyment including, but not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the *Act*; use of common areas for reasonable and lawful purposes, free from significant interference.

While there was no evidence before me that would suggest the Landlord or his agent entered the rental unit without proper notice; there was sufficient evidence to prove the value of the tenancy had been reduced due to the delay in getting the refrigerator repaired and during the 138 days without an operational dishwasher.

Regarding the Tenant's submissions that she felt she was being harassed by the Landlord's email or by being served two notices to end tenancy; I note that the *Act* provides a landlord the ability to end a tenancy in different circumstances. In each circumstance the *Act* requires the landlord to serve the tenant with a Notice to end tenancy.

In determining the claim for loss of quiet enjoyment I must consider the recent events of this tenancy and how a landlord and tenant are encouraged to try to resolve matters amicably amongst themselves prior to coming to dispute resolution.

In this case rent had not been increased annually since the onset of the tenancy in 2009. As the kitchen appliances and faucet started requiring repairs the Landlord did not pay for the repairs. The Landlord served the Tenant a Notice of Rent Increase to try to recoup past rent increases and to bring the rent closer to market value to accommodate costs for repairs. When the requirement for repairs increased the landlord / tenant relationship began to deteriorate and the Landlord filed an application for An Additional Rent Increase. Prior to the hearing to determine the Landlord's rent increase application the Landlord sent the Tenant the aforementioned email in attempts to "offer a few amicable alternatives right away." Upon review of that email, I do not find it to be harassing or intimidating in nature. Rather, I considered how email communications may be misinterpreted as they consist primarily of words written in a manner of fact and do not display emotions or various languages barriers.

As this landlord / tenant relationship continued to deteriorate the Tenant filed her application for Dispute Resolution seeking monetary compensation; the Landlord's application for an Additional Rent Increase was dismissed; and the Landlord decided to attempt to end the tenancy in two different ways; each of which required the Landlord to serve the Tenant a specific type of Notice to end tenancy.

Policy Guideline 6 provides, in part, that in order to be considered harassment, commonly referred to a loss of quiet enjoyment, the other party would have to have been found to have engaged in ongoing or repeated unwelcomed or vexatious behaviours.

I do not find the Landlord's actions of serving two different types of Notices to be harassment or a breach of the Tenant's quiet enjoyment at this time. Rather, I conclude there is sufficient evidence to prove the Landlord was simply trying to either start receiving a higher rental income to be able to renovate and repair the kitchen or end the tenancy by covering his bases and serving two different types of Notices. That being said, I caution the Landlord that he may be found to be harassing or intimidating the Tenant if he continues to serve the Tenant repeated Notices to end tenancy that are found to be unsupported at dispute resolution. Accordingly, I dismiss the Tenant's request for $4,200.00 for loss of quiet enjoyment without leave to reapply.

In determining the value of the Tenant's loss of quiet enjoyment relating to the lack of or delay of the appliance repairs, I referred to Policy Guideline 6 which states in part, when determining the amount by which the value of the tenancy has been reduced, the arbitrator should take into consideration the seriousness of the situation or the degree to which the tenant had been unable to use the premises, and the length of time over which the situation has existed.

As indicated above, I found the Landlord failed to repair or maintain the appliances in accordance with the *Act* and therefore, I conclude the Tenant suffered a loss of quiet enjoyment relating to the refrigerator and dishwasher. I accept the Tenant's submissions that her produce may not have lasted as long in the refrigerator given the moisture or humidity content with water pooling inside the refrigerator; which required her to clean up the water and make extra trips for produce. I further accept the Tenant's submissions that when the dishwasher remained unrepaired it caused her to suffer a loss of quiet enjoyment given that she had to clean dishes for her three children while working two jobs.

Based on the foregoing, I find it undeniable that the Tenant had suffered a loss of quiet enjoyment and a subsequent loss in the value of the tenancy relating to the refrigerator for a period of approximately 13 months and for 138 days without use of the dishwasher. That being said, I must also consider that the

Tenant continued to have full use of the refrigerator, kitchen, and the rest of the rental property for which she continued to pay the $2,100.00 monthly rent. Therefore, as I had found above that the Tenant had not taken reasonable actions to resolve the refrigerator repair sooner, I conclude the key factor in the devaluation of the tenancy was the loss of use of the dishwasher.

Therefore, based on the above considerations I find the Tenant is entitled to compensation for loss of quiet enjoyment equal to 5% of her daily rent of $69.04 ($2,100.00 x 12 months ÷ 365 days = $69.04 daily rent) for the 138 days without an operational dishwasher. Accordingly, I grant the Tenant's application for compensation for the loss of use of the dishwasher and loss of quiet enjoyment due to the delay in appliance repairs in the daily amount of $3.45 (5% of $69.04 daily rent) x 138 days for a total award of **$476.10**, pursuant to section 67 of the *Act.*

Section 72(1) of the Act stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) *[starting proceedings]* or 79 (3) (b) *[application for review of director's decision]* by one party to a dispute resolution proceeding to another party or to the director.

The Tenant has partially succeeded with their application; therefore, I award recovery of the filing fee in the amount of **$100.00**, pursuant to section 72(1) of the Act.

As per the above, the Landlord is hereby ordered to pay the Tenant the total sum of **$1,807.10** ($1,105.00 + $126.00 + $476.10 + $100.00) forthwith.

The parties are reminded of the provisions of section 72(2)(a) of the *Act*, which authorizes a tenant to reduce their rent payments by any amount the director orders a landlord to pay to a tenant, which in these circumstances is $1,807.10.

In the event this tenancy has ended or the Landlord does not comply with the above Order, the Tenant has been issued a Monetary Order for **$1,807.10.** This Order must be served upon the Landlord and may be enforced through Small Claims Court.

Conclusion

The Tenant was partially successful with her application and was awarded $1,807.10 monetary compensation.

This decision is final, legally binding, and 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 27, 2017

Residential Tenancy Branch

RESIDENTIAL TENANCY ACT

Meaning of "rent increase"

40 In this Part, **"rent increase"** does not include an increase in rent that is

(a) for one or more additional occupants, and

(b) is authorized under the tenancy agreement by a term referred to in section 13 (2) (f) (iv) *[requirements for tenancy agreements: additional occupants]*.

Rent increases

41 A landlord must not increase rent except in accordance with this Part.

Timing and notice of rent increases

42 (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:

(a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;

(b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.

(2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.

(3) A notice of a rent increase must be in the approved form.

(4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

Amount of rent increase

43 (1) 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 under subsection (3), or

(c) agreed to by the tenant in writing.

(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.

(3) 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.

(4) [Repealed 2006-35-66.]

(5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.