



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes    DRI, MNDC, OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to dispute a rent increase that does not comply with the Act, for a monetary order for compensation or loss or money owed and to have the landlord comply with the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

This matter commenced on February 8, 2017, and was adjourned to today's date. An interim decision was made which should be read in conjunction with this decision.

### Issues to be Decided

Should the rent increase be cancelled?

Is the tenant entitled to a monetary order for money owed?

Should the landlord be ordered to comply with the Act?

### Background and Evidence

The tenancy began on October 1, 2003. Rent in the amount of \$740.00 was payable on the first of each month. A security deposit of \$310.00 was paid by the tenant.

The tenant testified that the landlord increased the rent from \$740.00 to \$900.00 commencing January 1, 2017. The tenant stated that they issued the landlord cheques in the new amount; however, informed the landlord that they did not agree. The tenant filed their application to dispute the rent increase on January 13, 2017.

The landlord testified that they were original seeking an increase of rent by \$200.00. The landlord stated that this was not a rent increase; it was only because the tenant was allowed to sublet and they discovered the tenant would be collecting the amount of \$450.00 per month from the sublet tenant. The landlord stated that they both agreed to the increased amount of \$160.00 and the tenant issued three cheques.

The tenant responded that the tenancy agreement was originally based on three tenants. The tenant stated two of the original tenants have moved out and they have

obtained a roommate to help pay the rent. The tenant stated they only issued the cheques until this matter was resolved.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the evidence of the landlord was that an additional amount of rent was collected to allow the tenant to sublet the rental unit and that this is not a rent increase; however, that is not supported by the evidence before me.

The tenant has not assigned or transferred the tenancy agreement to a third party. The tenant is residing in the premises. I find the tenant has not sublet the rental premises.

In this matter the previous landlord and the tenant negotiated the rent. Rent was based on three tenants residing in the property. The agreement states an additional charge of \$50.00 per month may be charged for every additional occupant.

In this case, two of the original three tenants have now vacated the rental premises. The remaining tenant has obtained a roommate to help pay the rent, which is reasonable since there were three tenants residing in the two-bedroom townhouse and sharing the rent at the start of the tenancy.

I find the additional amount of \$160.00 collected by the landlord is an illegal rent increase and does not comply with section 43 of the Act. I further find by the tenant issuing rent cheques in the new amount does not constitute written consent as the landlord was informed by the tenant that they were disputing the increase, which I find the tenant did dispute within a reasonable timeframe. Therefore, I find rent in the amount of \$740.00 is payable on the first of each month.

Having found the landlord has collected an amount of rent greater than \$740.00. I find the tenant is entitled to recover the overpayment of rent for January, February, and March 2017 in the total amount of \$480.00. I authorize the tenant a onetime rent reduction in the amount of \$480.00 to be deducted from April 2017, rent of \$740.00. The tenant is to ensure the balance of April 2017, rent due of \$260.00 is paid to the landlord in accordance with the tenancy agreement. Rent of \$740.00 will continue thereafter until the rent is legally increased under the Act.

While the landlord argued during the hearing that the tenant has violated the tenancy agreement by not obtaining written permission or approval for their roommate. I find that is not an issue for me to determine at today`s hearing. I make no finding on that issue.

### Conclusion

The tenant`s application to dispute an additional rent increase is granted. The landlord must comply with section 43 of the Act. The tenant is authorized a onetime rent reduction in the above amount to recover the overpayment of rent.

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: March 10, 2017

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Residential Tenancy Branch