



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

DRI RP PSF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to dispute an additional rent increase, for an order for regular repairs to the unit, site or property, and for an order for the landlord to provide services or facilities agreed upon but not provided.

The tenant and the landlords appeared at the teleconference hearing and gave affirmed testimony. The parties were introduced and an opportunity to ask questions was provided to the parties. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Neither party raised any concerns regarding the service of documentary evidence.

### Issues to be Decided

- Should a rent increase be cancelled if evidence supports that it was not issued in accordance with the *Act*?
- Should the landlords be directed to make repairs to the unit, site or property?
- Should services or facilities be ordered to be restored under the *Act*?

### Background and Evidence

The original tenancy agreement began on October 1, 2015 and was a month to month agreement and ended on September 23, 2016 when a new month to month tenancy agreement was signed by the parties which remain in effect.

Originally monthly rent was \$1,000.00 per month and included cable and internet and then on the new tenancy agreement effective September 23, 2016, a co-tenant was added and monthly rent was increased to \$1,800.00 per month and is due on the first day of each month. In addition, while cable is still included in the monthly rent, the new tenancy agreement does not include internet.

The tenant is seeking to have internet services provided by the landlords as per the original tenancy agreement which the tenant was advised of during the hearing was not included on the new tenancy agreement signed by the tenant. As a result, the tenant's request for internet services to be provided by the landlords is dismissed without leave to reapply as I find the new tenancy agreement, a copy of which was submitted in evidence, does not include internet in the monthly rent.

Regarding cable, the parties agreed that at the start of the tenancy, the tenant had full HD PVR service with approximately 150 channels provided by the landlords and that service was recently removed in May 2017 to only 5 cable channels. The tenancy agreement includes cable as part of the monthly rent.

Regarding the rent increase, a copy of a Notice of Rent Increase document was submitted in evidence which is dated May 15, 2017 and indicates that monthly rent of \$1,000.00 will increase by \$37.00 to \$1,037.00 effective September 1, 2017. This rent increase was cancelled during the hearing as the monthly rent is \$1,800.00 and not \$1,000.00 and as a result, I find the rent increase is not enforceable as it does not match the rent listed on the tenancy agreement before the increase. The *Act* does not provide for separate rent increases to co-tenants listed on the same tenancy agreement. As a result, I cancel the landlords' Notice of Rent Increase dated May 15, 2017 and find that it is of no force or effect.

Finally, regarding the parties reached a mutually settled agreement regarding the repair to the property fence of the rental unit which is described below.

#### Settlement Agreement

During the hearing, the parties mutually agreed that the landlords would repair the fence panels no later than **Sunday, July 2, 2017 at 5:00 p.m.** The parties agreed that all missing panels will be closed and that the fence repair would be of good quality and safe for children as the tenant has a child and that the repair will be the same height as the existing fence.

#### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Internet** – As indicated above, I find the new tenancy agreement signed by the tenant effective September 23, 2017 does not include internet in the monthly rent and as a result, I dismiss the tenant's request for internet service without leave to reapply due to insufficient evidence.

**Rent increase** – As indicated above, I find the landlords did not issue the Notice of Rent Increase in accordance with the *Act* as the landlords attempted to split the \$1,800.00 rent for the

co-tenants into \$1,000.00 for this tenant. The *Act* does not provide the authority for the landlords to do that and as a result, I cancel the rent increase scheduled to be effective September 1, 2017 and find that it is not enforceable and is of no force or effect.

**Cable** – There is no dispute that as of September 23, 2016 the start of the new tenancy agreement, the tenant had full HD PVR cable service with approximately 150 channels. The tenant stated that she now has 5 channels since May 2017. Section 27 of the *Act* applies and states:

**Terminating or restricting services or facilities**

**27** (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

[Reproduced as written]

Based on the above, as the landlords have provided no supporting evidence that they have provided the tenant with 30 days' written notice, in the approved form, of the termination of cable plus a reduction of rent in an amount that is equivalent to the reduction of the value of the tenancy agreement from the termination of cable, I find as follows.

I find the landlords breached the tenancy agreement by restricting the tenant's original cable of the full HD PVR with approximately 150 channels to the current 5 channels. Therefore, I make the following order:

**I ORDER** the landlords to restore cable to the rental unit to the same or equivalent service as of September 23, 2016 when the new tenancy agreement was signed.

**The deadline to comply with my order is June 25, 2017 at 5:00 p.m.** Failure to

comply with my order will result in the tenant being able to apply for compensation under the *Act* and could lead to an administrative penalty under the *Act* with a maximum fine up to \$5,000.00 per day.

**Fence repair** – Pursuant to section 63 of the *Act* the parties reached a mutually settled agreement regarding the fence panel repair. The mutual agreement is described above and the parties confirmed that they understood that they entered into the mutual agreement on a voluntary basis and that the agreement forms a final and binding agreement between the parties that is enforceable under the *Act*.

### Conclusion

The tenant's application for internet service is dismissed.

The tenant's application for the restoration of cable service is successful. The landlords have been ordered to restore cable service as described above.

The tenant's application to cancel the rent increase is also successful.

The parties reached a mutually settled agreement regarding the fence panel repair. The mutual agreement is described above and the parties confirmed that they understood that they entered into the mutual agreement on a voluntary basis and that the agreement forms a final and binding agreement between the parties that is enforceable under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, 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: June 23, 2017

---

Residential Tenancy Branch