



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DLKA WIEBE PROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order regarding a disputed rent increase, pursuant to section 43.

The landlord's two agents, landlord EC ("landlord") and "landlord DD," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she is the resident manager and landlord DD is the building property manager for the landlord company named in this application and that both had authority to speak on its behalf at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's Application and the tenant was duly served with the landlord's written evidence package.

### Issue to be Decided

Is the tenant entitled to an order regarding a disputed rent increase?

### Background and Evidence

While I have turned my mind to the landlord's documentary evidence, since the tenant did not provide any for this hearing, and the testimony of both parties, not all details of

the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claims and my findings are set out below.

Both parties agreed to the following facts. This month-to-month tenancy began on December 1, 1996. The tenant has been living in the same building since 1990, but was previously in a different rental unit. A security deposit of \$200.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing. The landlord increased the tenant's rent by \$40.00 per month, from \$550.00 to \$590.00, effective on June 1, 2017. This was done by way of a signed agreement between the parties, dated February 14, 2017, which was signed by the landlord on February 14, 2017 and the tenant on February 28, 2017 ("rent increase agreement"). The above amount is in excess of the 3.7% amount that is limited by the *Residential Tenancy Regulation* ("*Regulation*") for the year 2017.

The tenant disputes the 2017 rent increase of \$40.00 per month, claiming that the maximum amount that the landlord can raise the rent is 3.7% as per the *Regulation* which is \$20.35 per month on the \$550.00 rent, for a total of \$570.35 due per month. She said that she signed the rent increase agreement under "duress." She said that the landlord's former building manager forced her to sign the rent increase agreement without reading it, that she was told "everybody has to sign it" and she had to sign it quickly. She said that her mother was a witness to this duress, but was unable to testify at this hearing.

The landlord confirmed that no one forced the tenant to sign the rent increase agreement. She said that the former building manager approached all tenants in the building and explained the rent increase agreement, giving them a choice as to whether they wanted to sign it or not. She claimed that a handful of people of the 55 tenants in the building that were given this rent increase agreement, refused to sign it. She explained that those people were told that the landlord may apply for an additional rent increase at the Residential Tenancy Branch ("RTB") if they did not sign the form. She stated that the tenant signed the rent increase agreement on February 28, 2017 and that she did not complain, approach the landlord to dispute it or fail to pay the rent increase amount. She said that she did not know that the tenant had an issue with the rent increase until she received the tenant's application for this hearing, which was filed on June 15, 2017, months after she signed the rent increase agreement and after the new rent took effect. She maintained that if the tenant had approached her earlier to dispute the rent increase, she could have tried to revoke it, but since so much time had

passed and the tenant's actions showed that she was agreeable to paying the increase, she could not dispute it now.

The landlord claimed that the tenant has not received rent increases every year since the beginning of her tenancy, that her rent was originally \$480.00 in December 1996, and that if the allowable amounts under the *Regulation* were used every year to increase the tenant's rent, that it would currently be at \$725.00 per month. The landlord testified that the other comparable units in the same building and area were being rented for substantially higher rent between \$825.00 and \$850.00 and the landlord provided rental advertisements in support of this claim.

### Analysis

Section 43 of the Act regulates rent increases and states the following, in part:

#### *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.*

I find that the rent increase agreement is a valid agreement between the parties to increase the tenant's rent above the allowable *Regulation* amount for 2017. It is in writing, provides the required three months' notice to the tenant for the increase as per section 42(2) of the *Act*, and was signed by both parties. I find that the tenant failed to show that she was under duress while signing the agreement. If she chose not to read what she was signing, that was her option. The tenant's actions further confirm that she did not dispute the rent increase by approaching the landlord and she did not file an application at the RTB until months later when she had already paid the new rent amount. I find that the \$40.00 amount is a small and reasonable percentage of the tenant's current rent, that she has not received rent increases every year of her tenancy and that the amount is still lower than comparable units in the same building and area.

Accordingly, I find that the tenant agreed to the additional \$40.00 per month in rent and that she cannot dispute this rent increase, as per sections 43(1)(c) and 43(2) above.

I order that the rent for the tenant's rental unit is \$590.00 per month effective as of June 1, 2017, for the remainder of this tenancy, until it is legally changed in accordance with the *Act*.

Both parties confirmed that the tenant has paid the correct amount of rent of \$590.00 per month to date, effective as of June 1, 2017. If this is incorrect, the landlord may file an application for dispute resolution to recover any unpaid rent at the RTB.

### Conclusion

The tenant's application is dismissed without leave to reapply.

I order that the rent for the tenant's rental unit is \$590.00 per month effective as of June 1, 2017, for the remainder of this tenancy, until it is legally changed 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: August 18, 2017

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Residential Tenancy Branch