



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**      CNR MNDC DRI OLC FF

### **Introduction**

This hearing dealt with a joint application by two tenants pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 39;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 60;
- authorization to recover the filing fee for this application, pursuant to section 65;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 36; and
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 55.

Both tenants filed separate applications, and as both tenants' applications were similar in nature, both agreed to have their hearings held at the same time. JW appeared on behalf of the landlords ('landlords') in this hearing. All parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to call witnesses, and to make submissions.

The landlords confirmed receipt of the tenants' applications for dispute resolution hearing package ("Applications") by way of registered mail. In accordance with sections 82 and 83 of the *Act*, I find that the landlords were deemed served with the tenants' application and evidence. As all parties confirmed receipt of each other's evidentiary materials, I find that these were duly served in accordance with section 81 of the *Act*.

The landlords indicated at the beginning of the hearing that they were no longer intending to pursue the 10 Day Notices to End Tenancy for Unpaid Rent issued to both tenants on August 14, 2017. At the landlord's request, these Notices are hereby withdrawn.

### **Issues**

Are the tenants entitled to a determination regarding their dispute of an additional rent increase by the landlords?

Are the tenants entitled to a monetary order for compensation for loss or money owed under the *Act*, regulation or tenancy agreement?

Are the tenants entitled to an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement?

Is the tenant LF entitled to recover the cost of the filing fee from the landlords for this application?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

### **Tenant 1: GB**

This month-to-month tenancy began on August 1, 1998. A copy of the tenancy agreement was included in the landlords' evidence. The tenant GB testified in the hearing that monthly pad rental was set at \$288.10, but was increased to \$360.00 effective April 1, 2017.

The landlords issued the increase on January 1, 2017 by way of a Notice of Standard Rent Increase that indicated a 3.7% allowable increase of \$10.66, plus an additional 21.26% increase of \$61.24. Attached to the Notice of Standard Rent Increase is a signed form indicating the tenant's consent to the additional increase. The form reads "I agree to allow my Pad rent to go from its current level to a monthly pad rent of \$360.00 per month". The tenant testified that he was forced to sign the agreement on December 28, 2017 by the landlords. The tenant GB testified that he received a letter from the landlords stating that if he did not sign the agreement to the increase, an Arbitrator at the RTB would impose the increase anyway.

The tenant did not submit a copy of this letter, but testified that the letter was identical to a letter previously served upon another tenant, ST. GB attached the consent letter signed by ST, which reads "If I go through the process of arbitration, I will be applying for Market rent. This will be \$400-\$420+ per month. But I am reasonable and would like to offer the park residents a break to ease into this process. I will offer a pad rent of \$360 per month. The conditions of this offer is that every person in the park must agree to this by Nov 31st, 2016. If one person will/ does not sign, then the offer is not available

anymore and I will be forced to go through the arbitration and apply for over \$400 per month". ST filed an application disputing the rent increase, and after a hearing held on August 2, 2017, the Arbitrator found the Notice of Standard Rent Increase to be invalid. The Arbitrator allowed ST to recover the increased rent for the months the rent increase was imposed and paid. GB is seeking to dispute the rent increase imposed on him, as well as a monetary order in the amount of \$431.40 for the disputed rent increase of \$71.90 each for the months of April 2017 through to September 2017.

### **Tenant 2: LF**

LF is also a tenant at the same manufactured home park, and was also subjected to a monthly pad rent increase by the landlords. LF testified in the hearing that monthly pad rental was set at \$265.40, but was increased to \$360.00 effective April 1, 2017.

The landlords issued the increase by way of a Notice of Standard Rent Increase dated January 1, 2017, which indicated a 3.7% allowable increase of \$9.82, plus an additional 34.38% increase of \$84.78. Attached to the Notice of Standard Increase is a signed form indicating the tenant's consent to the additional increase. The form reads "I agree to allow my Pad rent to go from its current level to a monthly pad rent of \$360.00 per month".

The tenant LF does not dispute having signed the agreement to the rent increase, or having received the Notice of Standard Rent Increase, but she testified that she signed the agreement after being by pressured by the landlords who told her that she was one of the few remaining tenants who did not sign the agreement for the rent increase.

Tenant LF testified that she did not receive any written threats, but that the landlords had threatened her verbally to sign the consent to increase. Tenant LF testified that she was told that if she refused to sign the mutual agreement form provided to her by the landlord, the rent would be increased to \$420.00. She said that she therefore agreed to the rent increase, and signed the agreement.

The tenant also testified that the Notice of Rent Increase was not received on January 1, 2017, but during the third week of January. The tenant could not recall the specific date, but testified that the Notice was in her mailbox. The landlords dispute the date of the service, and testified that the tenant was personally served on or before the date of the Notice. The tenant is seeking a reversal of the rent increase, as well as a monetary order of \$567.60 for the increased rent from April 2017 through to September 2017 (\$94.60 x 6 months).

The landlords acknowledged that Tenant ST was issued the above letter and agreement, but testified that a different version was given to GB and LF, which they both signed and voluntarily agreed to. The landlords admitted that this was a learning process for them, but testified that they had issued GB and LF the rent increases in accordance with the *Act*.

The landlords testified in the hearing that they had contacted the RTB on how to issue a rent increase in accordance with the *Act*, and did inform the tenants that as landlords they had the right to file for Arbitration for an additional increase as allowed by 36(3) of the *Act* which states “(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”. The landlords dispute the tenant's allegations that they had harassed them in order to obtain the written consent.

### **Analysis**

Section 36 of the *Act* speaks to **Amount of rent increase**, and provides in part:

36(1) A landlord may impose a rent increase only up to the amount...

(a) agreed to by the tenants in writing.

While I note the rent increase for another tenant in this same Manufactured Home Park was found to be invalid by an Arbitrator after a hearing, I find there is insufficient evidence to support a finding the landlords failed to comply with section 36(1) in imposing the rent increases upon the two applicants in this hearing.

The landlords argued that LF and GB were given a different letter than ST, and the evidence submitted for this hearing supports this. The tenants LF and GB did not provide sufficient evidence, including any witness testimony or written evidence to support their assertion that the landlord harassed or coerced them into signing the agreements. On the basis of the Notice of Standard Increase and the written agreements by both tenants, I find the rent increase to be valid, and I dismiss the tenants' applications disputing the rent increase.

Section 35 of the *Act* addresses **Timing and notice of rent increases**, and provides as follows

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

(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.

The tenant LF disputes receiving the notice on January 1, 2017, but testified that she found the notice 3 weeks later in her mailbox. As the tenant was unable to confirm when she received the notice, I find that the tenant failed to establish that the landlords did not comply with section 35(2) of the *Act*.

The significant fact is that Tenant LF did not dispute that she signed the agreement for the rent increase, and on that basis I find the Notice to be valid and effective as of April 1, 2017.

As I find the Notices of Standard Rent Increase to be valid as well as the signed agreements, I dismiss the entire application of both tenants' in their entirety.

### **Conclusion**

The landlords' 10 Day Notices dated August 14, 2017 were withdrawn and are no longer in effect. These tenancies continue until ended in accordance with the *Act*.

I dismiss the remainder of both tenants' applications without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: September 22, 2017

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Residential Tenancy Branch