



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RETIRE WEST RETIREMENT LTD and DEERWOOD PLACE MHP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- dispute of a rent increase pursuant to section 36 of the *Act*; and
- recovery of the filing fee from the landlord pursuant to section 65 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

As both parties were present, service of documents was confirmed. The tenant testified that he served the landlord with the Notice of Dispute Resolution Proceeding package and all of his evidence, except for a one-page document, by Canada Post registered mail. This was confirmed received by the landlord. I advised the parties that the one page of the tenant's evidence not served on the landlord would not be considered in this matter as it was not served in accordance with the Residential Tenancy Branch Rules of Procedure. Other than for the one page of evidence, based on the undisputed testimonies of the parties, I find that the tenant served the landlord with the documents for this hearing in accordance with section 89 of the *Act*.

The landlord confirmed that he did not submit any evidence in this matter.

### Issue(s) to be Decided

Is the Notice of Rent Increase issued by the landlord in accordance with the *Act*? If not, should the Notice of Rent Increase be cancelled?

### Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony presented, not all details of the submissions and arguments are reproduced here. Only the aspects of this matter relevant to my findings and the decision are set out below.

The tenant testified that he has lived in the manufactured home park for twelve years. He testified that his rent for 2018 was \$480.10. This was confirmed by the landlord.

The Notice of Rent Increase submitted into documentary evidence by the tenant states at the top of page 4, in section E, the tenant's current rent as \$435.33.

The landlord testified that in December 2018, he had adjusted the rent of those tenants who were grandfathered with rents including water and garbage, to reduce the rent and add in the separate charges for these costs. Therefore, the amount provided as the "current rent" in section E reflects the adjusted amount of the tenant's rent.

The tenant testified that he did not agree to this change in his rent arrangement.

The parties were provided with an opportunity to discuss options to settle their dispute but were ultimately unable to come to an agreement. As such, this matter was determined in accordance with the relevant provisions of the *Act*.

### Analysis

Section 14 of the *Act* states that a tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.

In this matter, the landlord unilaterally undertook to change the amount and composition of the tenant's 2018 rent, without the agreement of the tenant.

Based on the testimony and evidence before me, on a balance of probabilities, I find that there was no agreement between the parties to amend the tenant's 2018 rent, and this change in the tenant's rent was not in relation to a rent increase allowable under the *Act*. As such, I find the landlord's action to unilaterally change the tenant's 2018 rent to be prohibited by section 14 of the *Act*. Therefore, I find that the tenant's rent for 2018 remained as \$480.10, which was the amount of rent under the agreed upon terms of the tenancy agreement.

Given my above-noted findings, the Notice of Rent Increase issued by the landlord does not contain the correct information for the tenant's current rent required to be provided in section E.

Due to incorrect information stated by the landlord on the Notice of Rent Increase, I find that the landlord failed to provide information that is "true and correct" as required by section G of the Notice. Therefore, I find that the Notice of Rent Increase has not been provided in accordance with the *Act*. As such, I find that the Notice of Rent Increase is cancelled and of no force or effect.

The tenant's rent shall continue at the current amount of \$480.10 until it is either amended by agreement of both parties, or the landlord issues a valid Notice of Rent Increase in accordance with the *Act*.

As the tenant was successful in his application, he is entitled to recover the \$100.00 cost of the filing fee for this application from the landlord. In place of a monetary award, I order that the tenant withhold \$100.00 from a future rent payment on one occasion.

### Conclusion

The tenant was successful in his application and is ordered to withhold \$100.00 from a future rent payment on one occasion in satisfaction of the recovery of the filing fee for the application.

The landlord's Notice of Rent Increase is cancelled and of no force or effect.

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: January 14, 2019

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Residential Tenancy Branch