



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, DRI, SS

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) issued on November 15, 2018; to dispute a rent increase that is above the amount allowed; and to suspend or set conditions on the landlord’s right to enter the rental unit.

The tenant and the tenant’s advocate attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing was served in person on November 20, 2018.

I find that the landlord has been duly served in accordance with the Act.

The tenant appeared gave testimony and were provided the opportunity to present their evidence orally and in written, documentary form, and make submissions at the hearing.

### Issue to be Decided

Should the Notice be cancelled?

Is the rent increase over the allowable amount?

Should the landlord’s right to enter the rental unit be suspended?

### Background and Evidence

The Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on November 30, 2018.

The tenant testified that they have paid their rent by etransfer. The tenant acknowledged that they have rent arrears, which will be paid by January 7, 2019.

The tenant testified that the landlord gave them two (2) Notices of Rent Increase documents and that one (1) of these notices is over the allowable amount and the other is correct.

The tenant testified that the landlord had entered their rental unit on three (3) occasions without their consent to leave documents.

### Analysis

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

This matter was set for hearing by telephone conference call at 11:00 A.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the tenant.

Since the landlord did not attend the hearing by 11:10 A.M. to present any evidence or submission in support of the Notice. I find it appropriate to cancel the Notice, as I am unable to determine, if rent was due at the time the Notice was issued and not paid within the five days.

Therefore, I grant the tenant's application to cancel the Notice, and the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the Act.

Further, I accept the undisputed evidence that the landlord has issued two (2) Notices of Rent Increases. The tenant has only provided in evidence one (1) of the Notices of Rent Increase for me to consider.

The Notice of Rent Increase filed in evidence indicated that rent of \$725.00, would be increased by \$25.00 per month. That is over the allowable amount of 2.5%, therefore

not valid. However, the tenant has received a second rent increase, which was not provided for my review or consideration.

Should that Notice of Rent Increase comply with the 2.5% increase, the tenant is obligated under the Act, to pay that amount. It should be noted that the legislation changed during this period, and the rent increase percentage was lowered from 4.5% to 2.5%.

Further, I accept the undisputed evidence that the landlord has entered the tenant's rental unit on three (3) occasions to leave documents. The landlord is cautioned that they are not permitted to enter the rental unit without giving sufficient notice to enter in accordance with the Act.

The landlord is entitled to attend the rental unit to post documents or to serve the tenant in person in accordance with the Act.

### Conclusion

The tenant's application to cancel the Notice is granted. The tenancy will continue until legally ended 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: January 03, 2019

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Residential Tenancy Branch