



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, FFT

### Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to dispute a rent increase and to recover the cost of the filing fee.

The tenants and the landlord appeared at the teleconference hearing and gave affirmed testimony. 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.

The landlord confirmed that they received the documentary evidence from the tenants and that the landlord had the opportunity to review that evidence prior to the hearing. The landlord also confirmed that they did not serve any documentary evidence in response to the tenants' application.

### Preliminary and Procedural Matters

At the outset of the hearing, the parties confirmed the actual description of the rental unit and as a result, the application was amended to reflect the correct description of the rental unit. This amendment was made in accordance with section 64(3) of the Act.

The tenants confirmed their email address at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to the tenants and sent by regular mail to the landlord as the landlord did not have an email address to provide during the hearing.

### Issues to be Decided

- Did the landlord impose or attempt to impose a rent increase contrary to the *Act*?
- Should the tenants recover the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on February 1, 2018 and is scheduled to revert to a month to month tenancy as of February 1, 2019. Monthly rent is \$1,200.00 per month and due on the first day of each month.

The parties agreed that the tenants were informed by the landlord in late October 2018 that the landlord was seeking a rent increase of \$100.00 per month. The landlord testified that that amount was chosen as he claims the tenants had many items plugged in which has resulting in higher than expected utility bills.

The tenants' position is that the amount of \$100.00 is higher than permitted and that the increase was attempted verbally and must be in writing. The tenants have not agreed to the rent increase in writing.

### Analysis

Based on the oral testimony and documentary evidence before me, and on a balance of probabilities, I find the following. Section 43 of the *Act* states:

#### **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.

The allowable rent increase for residential units for 2019 is 2.5%. In addition, the rent increase must be in writing and on the prescribed form and be served three months prior to the rent increase taking effect.

As a result, I find the amount of \$100.00 is over the \$30.00 maximum amount that the landlord would be entitled to raise the rent legally under the *Act*. I find that \$100.00 is an increase of over 8% and is **not in accordance with the Act**. Furthermore, I find the landlord failed to serve the tenants with the Notice of Rent Increase form in writing as required by the *Act*.

Based on the above and the testimony, I find that the landlord breached section 43 of the *Act* by attempting to raise the rent by \$100.00. As a result, I make the following order.

**I ORDER** that the tenants' rent remains at \$1,200.00 per month until increased in accordance with the *Act*.

**I caution** the landlord to comply with section 43 of the *Act* in the future.

As the tenant's application had merit, I grant the tenants **\$100.00** for the recovery of the filing fee pursuant to section 72 of the *Act*. I grant the tenants a one-time rent reduction for February 2019 rent in the amount of \$100.00 in full satisfaction of the recovery of the cost of the filing fee under the *Act*.

### Conclusion

The tenants' application is successful.

The landlord breached section 43 of the *Act* by attempting to impose a verbal rent increase of \$100.00.

The tenants' rent remains at \$1,200.00 per month until increased in accordance with the *Act*.

The landlord has been cautioned to comply with section 43 of the *Act*.

This decision will be emailed to the tenants and sent by regular mail to the landlord.

The tenants have been granted a one-time rent reduction for February 2019 rent in the amount of \$100.00 in full satisfaction of the recovery of the cost of the filing fee under the *Act*. This is in accordance with section 67 and 72 of 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: January 11, 2019

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Residential Tenancy Branch